

RECEIVED

JUL 10 1989

LAW LIBRARY

The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

EXECUTIVE ORDER

FINAL DECISION LETTER

PROPOSED RULES

Commerce

Cultural Resources

Human Resources

Landscape Architects

NRCD

FINAL RULES

List of Rules Codified

ISSUE DATE: JULY 3, 1989

Volume 4 • Issue 7 • Pages 365-454



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 page or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

North Carolina Register. Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

North Carolina Administrative Code. Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



*Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, NC 27604
(919) 733 - 2678*

Robert A. Melott,
Director
James R. Scarcella Sr.,
Deputy Director
Molly Masich,
Director APA Services

Staff:
Ruby Creech,
Publications Coordinator
Teresa Kilpatrick,
Editorial Assistant
Jean Shirley,
Editorial Assistant

ISSUE CONTENTS

I. EXECUTIVE ORDER

Executive Order 92.....365

II. FINAL DECISION LETTER

Voting Rights Act367

III. PROPOSED RULES

Commerce

Finance Center368

Cultural Resources

Archives and History.....370

Arts Council371

Human Resources

Departmental Rules372

Facility Services.....377

Health Services405

Mental Health, Mental

Retardation and Substance

Abuse Services.....417

Licensing Board

Landscape Architects.....443

NRCD

Environmental Management....431

IV. FINAL RULES

List of Rules Codified.....445

V. CUMULATIVE INDEX.....453

NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
 (January 1989 - May 1990)

| Issue Date | Last Day for Filing | Last Day for Electronic Filing | Earliest Date for Public Hearing & Adoption by Agency | * Earliest Effective Date |
|---------------|---------------------------|---|--|------------------------------------|
| ***** | ***** | ***** | ***** | ***** |
| 01/02/89 | 12/08/88 | 12/15/88 | 02/01/89 | 05/01/89 |
| 01/16/89 | 12/27/88 | 01/03/89 | 02/15/89 | 05/01/89 |
| 02/01/89 | 01/10/89 | 01/17/89 | 03/03/89 | 06/01/89 |
| 02/15/89 | 01/26/89 | 02/02/89 | 03/17/89 | 06/01/89 |
| 03/01/89 | 02/08/89 | 02/15/89 | 03/31/89 | 07/01/89 |
| 03/15/89 | 02/21/89 | 03/02/89 | 04/14/89 | 07/01/89 |
| 04/03/89 | 03/10/89 | 03/17/89 | 05/03/89 | 08/01/89 |
| 04/14/89 | 03/23/89 | 03/31/89 | 05/14/89 | 08/01/89 |
| 05/01/89 | 04/10/89 | 04/17/89 | 05/31/89 | 09/01/89 |
| 05/15/89 | 04/24/89 | 05/01/89 | 06/14/89 | 09/01/89 |
| 06/01/89 | 05/10/89 | 05/17/89 | 07/01/89 | 10/01/89 |
| 06/15/89 | 05/24/89 | 06/01/89 | 07/15/89 | 10/01/89 |
| 07/03/89 | 06/12/89 | 06/19/89 | 08/01/89 | 11/01/89 |
| 07/14/89 | 06/22/89 | 06/29/89 | 08/13/89 | 11/01/89 |
| 08/01/89 | 07/11/89 | 07/18/89 | 08/31/89 | 12/01/89 |
| 08/15/89 | 07/25/89 | 08/01/89 | 09/14/89 | 12/01/89 |
| 09/01/89 | 08/11/89 | 08/18/89 | 10/01/89 | 01/01/90 |
| 09/15/89 | 08/24/89 | 08/31/89 | 10/15/89 | 01/01/90 |
| 10/02/89 | 09/11/89 | 09/18/89 | 11/01/89 | 02/01/90 |
| 10/16/89 | 09/25/89 | 10/02/89 | 11/15/89 | 02/01/90 |
| 11/01/89 | 10/11/89 | 10/18/89 | 12/01/89 | 03/01/90 |
| 11/15/89 | 10/24/89 | 10/31/89 | 12/15/89 | 03/01/90 |
| 12/01/89 | 11/07/89 | 11/15/89 | 12/31/89 | 04/01/90 |
| 12/15/89 | 11/22/89 | 12/01/89 | 01/14/90 | 04/01/90 |
| 01/02/90 | 12/07/89 | 12/14/89 | 02/01/90 | 05/01/90 |
| 01/16/90 | 12/20/89 | 12/29/89 | 02/15/90 | 05/01/90 |
| 02/01/90 | 01/10/90 | 01/18/90 | 03/03/90 | 06/01/90 |
| 02/15/90 | 01/25/90 | 02/01/90 | 03/17/90 | 06/01/90 |
| 03/01/90 | 02/08/90 | 02/15/90 | 03/31/90 | 07/01/90 |
| 03/15/90 | 02/22/90 | 03/01/90 | 04/14/90 | 07/01/90 |
| 04/02/90 | 03/12/90 | 03/19/90 | 05/02/90 | 08/01/90 |
| 04/16/90 | 03/23/90 | 03/30/90 | 05/16/90 | 08/01/90 |
| 05/01/90 | 04/09/90 | 04/17/90 | 05/31/90 | 09/01/90 |
| 05/15/90 | 04/24/90 | 05/01/90 | 06/14/90 | 09/01/90 |

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

EXECUTIVE ORDER NUMBER 92**ESTABLISHING THE WESTERN NORTH CAROLINA ENVIRONMENTAL COUNCIL**

The counties of Western North Carolina are among the most environmentally and economically important areas of the State. Like elsewhere in the State, population increases and the needs of today's society are bringing changes to these counties requiring that choices be made as to the means by which the environmental and economic needs of the area can best complement each other. When such choices are to be made it is important that interested parties be fully, accurately and timely informed as to all aspects of the choices that are to be made and the issues that are to be decided. This executive order is to provide an effective means for achieving that end.

THEREFORE, pursuant to authority vested in me as Governor by the Constitution and laws of North Carolina, it is ORDERED:

Section 1: There is hereby created the Western North Carolina Environmental Council. The purpose of the Council shall be to act as a forum in which environmental and economic concerns in Western North Carolina may be openly inquired into and discussed, to the end that interested parties may be fully, accurately and timely informed as to all aspects of the choices that are to be made and the issues that are to be decided concerning them.

Section 2: As used herein "Western North Carolina" shall include the following counties and such other geographical areas as the Council from time to time deems appropriate, either on a permanent or ad hoc basis:

| | |
|-----------|--------------|
| Alleghany | Macon |
| Ashe | Swain |
| Avery | Madison |
| Buncombe | McDowell |
| Burke | Mitchell |
| Caldwell | Polk |
| Cherokee | Rutherford |
| Clay | Transylvania |
| Graham | Watauga |
| Haywood | Wilkes |
| Henderson | Yancey |
| Jackson | |

Section 3: The Council shall be composed of eighteen members in addition to the chairman and ex officio members. Council members shall be appointed by the Governor and shall consist of persons found by the Governor to be inter-

ested in and knowledgeable about the environment and economic affairs of Western North Carolina. Each member shall serve for such term as the Governor shall prescribe in appointing him. The Secretaries of the Departments of Commerce, Human Resources, Natural Resources and Community Development and Transportation or their designees shall be ex officio members of the Council.

Section 4: The Lt. Governor shall be chairman of the Council. There also shall be a vice-chairman appointed by the Governor from among the Council members. The chairman and vice-chairman shall serve for such terms as the Governor shall prescribe.

Section 5: The Council shall meet regularly at least quarterly at such places, on such dates and at such times as the Chairman shall direct. All such meetings shall be held in Western North Carolina unless the Council shall direct otherwise. Special meetings of the Council shall be held on the call of the Chairman at such places, on such dates and at such times as the Chairman shall direct or at the call of at least a majority of the Council members, excluding the Chairman.

Section 6: The Chairman, and in his absence the Vice-Chairman and in both their absences a Council member designated by the Chairman, shall preside at all Council meetings. Council business shall be conducted according to rules adopted by the Council at its first meeting. Matters coming before the Council that are not covered by the rules shall be determined according to Robert's Rules of Order. Minutes of Council meetings and the records of the Council shall be kept by a Secretary chosen by the Council from among its members, or otherwise, at the first meeting of the Council.

Section 7: The Council shall be served by three permanent committees and such other committees and subcommittees as the Council shall direct. Committee and subcommittee duties, procedures and duration shall be as the Council prescribes. Committee and sub-committee members shall be appointed by the Chairman. The three permanent committees shall be:

- (a) Agenda Committee
- (b) Public Information Committee
- (c) Technical Resource Committee

Section 8: In carrying out its purpose the Council shall:

- (a) At its own initiative or at the request of public bodies, public officials or members of the

public, select matters of environmental and/or economic concern to Western North Carolina and place them upon the Council agenda for consideration.

(b) Conduct public hearings concerning matters upon the Council agenda at which members of the public may present and explain to the Council their views.

(c) Conduct investigations into matters upon the Council agenda and announce the results of their investigations to the public.

(d) Make reports concerning matters upon the Council agenda to the affected parties, the Governor and other appropriate public officials, persons requesting such reports and the public.

Section 9: The administrative departments of State Government, including the component campuses of the University of North Carolina and the Community College System, shall render assistance to the Council upon request. The Departments of Administration, Human Resources, Natural Resources and Community Development and Transportation, together, shall furnish the Council with such staff as it reason-

ably shall need. The Secretaries of the four departments shall meet with the Chairman of the Council immediately after the date of the Council's first meeting and agree with him as to how such staff needs shall be furnished.

Section 10: Council members shall be reimbursed for necessary travel and subsistence expenses as authorized under G.S. §138-5 and §138-6. Funds for the reimbursement of such expenses shall be made available from funds appropriated to the Departments of Administration, Human Resources, Natural Resources and Community Development and Transportation as directed by the Director of the Budget.

Section 11: This Executive Order shall become effective immediately and shall expire in accordance with North Carolina law two years from the date on which it is signed. This Executive Order is subject to reissuance or extension at the direction of the Governor.

Done in Raleigh, North Carolina, this 31st day of May, 1989.

VOTING RIGHTS ACT FINAL DECISION LETTER

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

JPT:LLT:KIF:gmh
DJ 166-012-3
Y4634-4635
Y6915

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

June 12, 1989

Richard J. Rose, Esq.
Poyner & Spruill
P.O. Box 10096
Raleigh, North Carolina 27605-0096

Dear Mr. Rose:

This refers to the two annexations (Nos. 177 and 178, Ordinance Nos. 0-88-68 and 0-88-87) and the designation of the annexed areas to single-member districts for the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on April 11, 1989.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

TITLE 4 - DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-12 that the Commerce Finance Center intends to amend rule(s) cited as 4 NCAC 1J .0101 - .0102, .0201, .0301; and adopt rule(s) cited as 4 NCAC 1J .0401.

The proposed effective date of this action is November 1, 1989.

The public hearing will be conducted at 10:00 a.m. on August 2, 1989 at Room 6168 - Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Any person interested in this rule may present oral comments to the action proposed at the public rule-making hearing or deliver written comments to the Commerce Finance Center no later than August 4, 1989. Anyone planning to attend the hearing should notify Bruce Strickland, Jr., Commerce Finance Center, by August 1, 1989.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1J - NORTH CAROLINA JOBS TAX CREDIT

SECTION .0100 - PURPOSE AND DEFINITIONS

.0101 BACKGROUND AND OBJECTIVES

G.S. 105-130.40 and G.S. 105-151.17, as amended, provide Chapter 568 of the 1987 Session Laws provides that certain employers may be eligible for and may qualify for a credit against the tax proposed by the North Carolina Department of Revenue. This credit of two thousand eight hundred dollars (\$2,800) may be claimed when qualifying full-time employees are added by an eligible employer in a severely distressed county. The legislation sets out particular responsibilities for ~~three~~ two separate departments of State Government; this Section is to set how the Department of Commerce will conduct activities and responsibilities assigned to it under this act.

Authority G.S. 105-130.40(a),(b),(c), and (d); 105-151.17(a),(b),(c), and (d); Chapter 568, 1987 S.L.; Chapter 111, 1989 S.L.

.0102 DEFINITIONS

(a) "Distress factor": a distress factor is defined as the sum of:

- (1) the county's rank in a ranking of counties by rate of unemployment from lowest to highest, and
- (2) the county's rank in a ranking of counties by per capita income from highest to lowest.

(b) "Date of signing" shall be defined as the date on which the Secretary of Commerce, his designee, or the Commerce Finance Center receives and accepts as complete, a commitment under Paragraph (d) of ~~G.S. 105-130.4~~ G.S. 105-130.40 and G.S. 105-151.17. Such a commitment will not be so defined unless it is signed by a officer of the corporation or by the taxpayer.

(c) "Department" means the North Carolina Department of Commerce.

(d) "Eligible employer" is defined as a corporation that is located in ~~the~~ a distressed county. ~~that engages in, or that is a taxpayer that owns a business that engages in, manufacturing, agribusiness, processing, warehousing, retailing, research and development or a service related industry, as determined by the North Carolina Employment Security Commission.~~

(e) "Full time employee" is defined as an employee who holds a full time job.

(f) "Full time job" is defined as a position that is located in the distressed county and requires at least 1600 hours of work per year and is intended to be held by one person during the entire year.

(g) "Letter of Commitment" is defined as an agreement between the department and a corporation or a taxpayer. ~~that is:~~

- (1) ~~determined as eligible for this credit by the Employment Security Commission, or~~
- (2) ~~if a formal determination has not been made by the Employment Security Commission, that has received a advisory opinion to that effect from that agency's chief counsel.~~

This letter of commitment will set out:

- (1)(A) ~~(A)~~ the name of the corporation or the individual taxpayer entity that will file the North Carolina tax return under Chapter 105;
- (2)(B) ~~(B)~~ the name that will be used in the conduct of business, if different from;
- (3)(C) ~~(C)~~ the permanent or Home Office address of the management group directing the operation of the business;
- (4)(D) ~~(D)~~ the location(s) of the qualifying business operations within the distressed county;
- (5)(E) ~~(E)~~ a schedule showing the number of permanent full time positions to be created and the time sequence for their being filled;

- (6)(F) an estimate of the cost of new capital expenditures within the distressed county over the two year time period of the commitment;
- (7)(G) an official contact with the operating firm to whom inquiries pertinent to the agreement can be directed;
- (H) ~~the firm's statement regarding awareness of and acceptance of procedures relating to the program being required by the North Carolina Employment Security Commission, especially as regards to the filing of quarterly wage reports;~~
- (8)(I) the date of signing, as defined in Paragraph (b) of this Rule;
- (9)(J) where the scope of a project changes significantly after the Letter of Commitment has been filed, and within the same calendar year, a corporation or individual taxpayer may then file a new letter of commitment in that year which shows revised data;
- (10)(K) "severely distressed county" is defined as a county designated as such by the Secretary of the Department of Commerce. The secretary will make such a designation only if a county has a distressed factor that is one of the 20 highest in the state. ~~and it has an unemployment rate of seven percent or more.~~

Authority G.S. 105-130.40(c) and (d); 105-151.17(c) and (d); Chapter 568, 1987 S.L.; Chapter 111, 1989 S.L.

SECTION .0200 - DESIGNATION OF SEVERELY DISTRESSED COUNTIES

.0201 DESIGNATION OF SEVERELY DISTRESSED COUNTIES

On or before December 31 of each calendar year, the secretary of the department shall designate which counties are considered as severely distressed, and shall provide that information to the Secretary of Revenue. The department will obtain from the North Carolina Employment Security Commission the adjusted monthly estimates of unemployment for the most recent 36 month period for which data is available. Those monthly estimates will be averaged and those averages used to rank the counties by arranging them in numerical order of the county with the lowest unemployment as number 1 to the county with the highest unemployment as number 100.

The department will obtain from the United States Department of Commerce the latest available annual per capita income figures, by county, for the most recent 36 month percent for which

data is available. Those annual figures will be averaged and those averages used to rank the counties in numerical order of the county with the highest per capita income average as number 1 to the county with the lowest per capita income average as number 100. These two rankings will be totaled so as to provide a sum which will be the county's distress factor. Those 20 counties with the highest distress factors will be designated as severely distressed by the Secretary of Commerce, enumerated. That list of 20 counties will be compared to the adjusted unemployment figures for the latest month in that 36 month period data obtained from the Employment Security Commission. Where that county unemployment rate for that latest month is seven percent or more, the secretary will designate the county as severely distressed, documenting that:

- (1) a county has a distress factors which is one of the 20 highest in the state; and
- (2) a county has an unemployment rate of seven percent or more.

The list of counties so designated will be provided to the Secretary of the North Carolina Department of Revenue. In addition, written notice of that designation will be given to the chairman of elected governing board in each county so designated.

Authority G.S. 105-130.40(c) and (d); 105-151.17(c) and (d); Chapter 568, 1987 S.L.; Chapter 111, 1989 S.L.

SECTION .0300 - LETTER OF COMMITMENT

.0301 LETTER OF COMMITMENT

"Letter of Commitment" will be made in the form prescribed by the Department of Commerce. They will complete as defined in Rule .0102 (g) of this Section. When accepted and signed by the secretary, or his designee, that acceptance will be given in writing to the person(s) or entity offering the commitment. These commitments will be received and will be kept on record at the Commerce Finance Center, Room 2174, 2049, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina 27611. A summary listing of those commitments made available to the Department of Revenue within 90 days after the close of each calendar year.

Authority G.S. 105-130.40(c) and (d); 105-151.17(c) and (d); Chapter 568, 1987 S.L.

SECTION .0400 - SUBSTANTIATION OF CREDIT CLAIMED

.0401 SUBSTANTIATION OF CREDIT CLAIMED

Every taxpayer claiming the Jobs Tax Credit shall maintain and make available for inspection by the Secretary of Revenue such records as may be necessary to determine and verify the amount of credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests with the taxpayer, and no credit will be allowed to the taxpayer who fails to maintain adequate records or to make them available for inspection.

Authority G.S. 105-130.40(f); 105-151.17(f); Chapter 111, 1989 S.L.

TITLE 7 - DEPARTMENT OF CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Cultural Resources/Archives and History intends to adopt and amend rule(s) cited as 7 NCAC 4S .0001 - .0010.

The proposed effective date of this action is November 1, 1989.

The public hearing will be conducted at 9:30 a.m. on August 8, 1989 at Archives and History-State Library Building, 109 E. Jones Street, Room 305, Raleigh, NC.

Comment Procedures: Written comments to Dr. William S. Price, Jr., Director, Division of Archives and History, 109 E. Jones Street, Raleigh, NC 27611 (Room 305) no later than 5:00 p.m., August 7, 1989.

CHAPTER 4 - ARCHIVES AND HISTORY

SUBCHAPTER 4S - TRYON PALACE SECTION

.0001 STATEMENT OF PURPOSE

The purpose of the Tryon Palace Section is to preserve, operate, and maintain the Tryon Palace ~~Complex~~ Restoration for public benefit, to present a program whereby citizens have maximum opportunity to learn and appreciate their history and heritage as represented through the exhibition facilities, and to maintain the collections in keeping with the best conservation practices. It is also the section's purpose to increase visitation through wider promotion and publicity and through expanded crafts programs and special educational tours.

Statutory Authority G.S. 121-14; 121-20; 143B-71.

.0002 VISITING HOURS

(a) Tryon Palace Restoration will be open ~~Tuesday~~ Monday through Saturday from 9:30 a.m. to 4:00 p.m. and on Sunday from 1:30 p.m. to 4:00 p.m.

(b) Tryon Palace Restoration will be closed on Monday (except for Easter Monday and Labor Day), New Year's Day, Thanksgiving Day, and Christmas holidays as set by the State of North Carolina for state employees.

Statutory Authority G.S. 121-14; 121-20; 143B-71.

.0003 ADMISSION PRICES

Admission prices are:

- (1) Tryon Palace and gardens, adults, four dollars (\$4.00); students through high school, one dollar (\$1.00); college students and military personnel with identification, three dollars (\$3.00); senior citizens groups and commercial bus tours arranged in advance, three dollars (\$3.00).
- (2) Stanly House, adults, two dollars (\$2.00); students through high school, one dollar (\$1.00).
- (3) Stevenson House, adults, two dollars (\$2.00); students through high school, one dollar (\$1.00).
- (4) General admission ticket to all exhibition buildings and gardens, adults, six dollars (\$6.00); students through high school, two dollars (\$2.00).
- (5) Garden ticket, adults, two dollars (\$2.00); students through high school, one dollar (\$1.00).
- (6) No charge for children under six.
- (1) Tryon Place and gardens, adults eight dollars (\$8.00); students through high school, four dollars (\$4.00); college students and military personnel with identification, seven dollars (\$7.00); groups of 20 or more arranged in advance, seven dollars (\$7.00).
- (2) Stanly and Dixon-Stevenson Houses, adults, eight dollars (\$8.00); students through high school, four dollars (\$4.00).
- (3) General admission ticket to all exhibition buildings and gardens, adults, twelve dollars (\$12.00); students through high school, six dollars (\$6.00).
- (4) Garden ticket, adults, four dollars (\$4.00); students through high school, three dollars (\$3.00).
- (5) No charge for children under six.

Statutory Authority G.S. 121-14; 121-20; 143B-71.

.0004 VISITATION RULES

(a) Eating and chewing gum are not permitted in the Tryon Palace Restoration exhibition buildings. With prior approval of the Chief, Tryon Palace Section, refreshments may be served within the exhibition area for special events and meetings.

(b) Pets are not permitted in the buildings or on the grounds of the ~~complex~~ restoration, except guide dogs for legally blind persons.

(c) Photography is permitted inside the exhibition buildings with advance approval of the Chief, Tryon Palace Section. A staff member must accompany the photographer at all times. Requirements for special lighting or wiring must be cleared through the ~~plant maintenance supervisor,~~ technical services director.

(g) All tours of the Tryon Palace exhibition buildings are conducted by ~~hostesses,~~ guides. The general public is not allowed to go through the buildings without a ~~hostess,~~ guide.

Statutory Authority G.S. 121-4(8),(9); 143B-62(2)d.

.0005 USE OF THE AUDITORIUM

(b) Application for use must be presented to and approved by the Chief, Tryon Palace Section, according to the following regulations:

(5) Microphones and any state-owned audiovisual equipment must be operated by a member of the Tryon Palace Restoration staff.

Statutory Authority G.S. 121-4(8),(9); 143B-62(2)d.

.0006 RESEARCH

With special written permission of the Chief, Tryon Palace Section, research may be conducted by qualified scholars or persons in the museum field utilizing items in the libraries and collections of the Tryon Palace ~~complex~~ Restoration during regular hours of operation.

Statutory Authority G.S. 121-4(8),(9); 143B-62(2)d.

.0007 AUDIOVISUAL AIDS

Slide sets of Tryon Palace are available on a loan basis for a small fee through the education branch of the Tryon Palace Section. The fee for use of the ~~36-~~ slide set with script is two dollars (\$2.00) plus return postage by insured mail.

Statutory Authority G.S. 121-4(8),(9),(14); 143B-62(2)d.

.0008 PHOTOGRAPHIC SERVICES

Photographs from the Tryon Palace accessioning files are available at cost. Special photos can be taken by a member of the Tryon Palace staff on special order at cost. Inquiries should be addressed to the ~~Registrar,~~ Director of Research and Collections.

Statutory Authority G.S. 121-14; 121-20; 143B-71.

.0009 ACQUISITION OF ARTIFACTS

Furniture, art objects, artifacts, or other objects within the period of the Tryon Palace ~~complex~~ Restoration buildings are accepted on behalf of the state by the Tryon Palace Commission to further interpret the history and life styles of the appropriate periods. Offers of gifts or loans of furniture, art objects, and artifacts to Tryon Palace must be directed to the ~~Chairman, Tryon Palace Commission,~~ Chief, Tryon Palace Section. The ~~Chairman~~ chief will ~~refer~~ present all such offers to the ~~appropriate committee of the Tryon Palace Commission for~~ Chairman of the Tryon Palace Commission with a recommendation of which artifacts shall be accepted. The chairman will refer the recommendation to the appropriate committee of the Tryon Palace Commission.

Statutory Authority G.S. 121-4(8),(9); 143B-62(2)d.

.0010 OPERATION

Rules .0102 through .0108 in Subchapter 4N, Section .0100, shall apply to the operation of the Tryon Palace Restoration.

Statutory Authority G.S. 121-4(8),(9); 143B-62(2)d.

Notice is hereby given in accordance with G.S. 150B-12 that the Cultural Resources/Division of the Arts Council intends to adopt rule(s) cited as 7 NCAC 12 .0001-.0005.

The proposed effective date of this action is November 1, 1989.

The public hearing will be conducted at 9:00 a.m. on August 2, 1989 at Room 315, Archives and History Bldg., 109 E. Jones Street, Raleigh, N. C.

Comment Procedures: Written comments may be submitted by July 31, 1989, to the APA Coordinator for the Department of Cultural Resources, Dr. Boyd Cathey, Room 308, Archives and History Bldg., 109 E. Jones Street, Raleigh, NC.

CHAPTER 12 - ART WORKS IN STATE BUILDINGS PROGRAM

.0001 CONSTRUCTION REVIEW

The Department of Administration shall review authorized construction projects with the North Carolina Arts Council and insure that amounts expended for acquisition of art works are included in construction requests from state agencies.

Statutory Authority G.S. 143-408.4; 143-408.5.

.0002 TRANSFER OF FUNDS

The Office of State Budget and Management will approve the transfer of all funds determined appropriate for the acquisition of art from the appropriate capital improvement code to the Department of Cultural Resources.

Statutory Authority G.S. 143-408.4.

.0003 PROGRAM ADMINISTRATION

The Department of Cultural Resources, through the North Carolina Arts Council, shall establish a single administrative fund for the Art Works in State Buildings Program. No more than 8 percent of available program funds may be applied to the administration of the program. The North Carolina Arts Council may supplement funding for program administration.

Statutory Authority G.S. 143-408.4.

.0004 GUIDELINES

Guidelines, including assurances of the involvement of disadvantaged and minority artists, will be established and publicized by the North Carolina Arts Council.

Statutory Authority G.S. 143-408.4.

.0005 SELECTION, INSTALLATION, AND MAINTENANCE

The North Carolina Arts Council has the responsibility to:

- (1) coordinate the input and involvement of the owning agency in the selection process;
- (2) submit for approval to the Art Works in State Buildings committee the project artist selection plan;

- (3) advertise the need for artist services in the North Carolina Purchase Directory;
- (4) appoint a pre-selection committee comprised of a minimum of three arts professionals, directed by the Public Art Administrator, to recruit and screen artists of exceptional merit;
- (5) submit for approval to the Art Works in State Buildings committee the artist(s) recommended through the approved plan;
- (6) contract with artist(s) and oversee the completion of commissioned art work(s);
- (7) coordinate with the Department of Administration, the owning agency and the designer to arrange for installation of work(s) of art;
- (8) own all works of art acquired under this act and maintain records of the art works;
- (9) provide condition reports on art works and request funds as necessary for the on-going maintenance of the arts works; and
- (10) provide the owning agency with a letter of agreement which specifies routine allowable maintenance procedures.

Statutory Authority G.S. 143-408.4; 143-408.5.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Department of Human Resources intends to repeal rule(s) cited as 10 NCAC 1B .0401 - .0417; and adopt rule(s) cited as 10 NCAC 1B .0418 - .0419.

The proposed effective date of this action is November 1, 1989.

The public hearing will be conducted at 9:00 a.m. on August 14, 1989 at Room 158, Adams Bldg., 101 Blair Drive, Raleigh, NC 27603.

Comment Procedures: Written comments concerning the adoption of these rules and the repeal of these rules must be submitted to Steven P. Rader, Assistant Director of Legal Affairs, DHR, 101 Blair Drive, Raleigh, NC 27603. Oral comments may be presented at the hearing. In addition, fiscal impact statements on this adoption and repeal of these rules are available upon written request from the same address.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1B - PROCEDURE

SECTION .0400 - AUDITING PROCEDURES

- .0401 AUDITING STANDARDS AND SCOPE OF AUDIT (REPEALED)
- .0402 NOTIFICATION OF AUDIT (REPEALED)
- .0403 DISCUSSION OF SCOPE OF AUDIT (REPEALED)
- .0404 COMPLETION OF AUDIT FIELDWORK (REPEALED)
- .0405 PRE-EXIT CONFERENCE (REPEALED)
- .0406 NOTIFICATION OF TENTATIVE FINDINGS (REPEALED)
- .0407 FURTHER REVIEW OF AUDIT TO MAKE REPORT FORMAL (REPEALED)
- .0408 EXIT CONFERENCE TO BE SCHEDULED (REPEALED)
- .0409 DISTRIBUTION OF AUDIT REPORTS (REPEALED)
- .0410 WRITTEN RESPONSE TO FORMAL AUDIT (REPEALED)
- .0411 DIVISION DIRECTOR REVIEWS RESPONSE AND MAKES RECOMMENDATION (REPEALED)
- .0412 SECRETARY ESTABLISHES FINAL POSITION (REPEALED)
- .0413 GRANTEE OR PROVIDER RESPONDS TO DEPARTMENTAL DECISION (REPEALED)
- .0414 APPOINTMENT OF AUDIT REVIEW COMMITTEE (REPEALED)
- .0415 PROCEDURES APPLICABLE TO HEARING (REPEALED)
- .0416 RESOLUTION OF AUDIT (REPEALED)
- .0417 AUDITING PROCEDURES/AUDITS PERFORMED/EXTERNAL AUDITORS (REPEALED)

Statutory Authority G.S. 143B-10(j); 143B-139.1.

.0418 SINGLE AUDITS OF LOCAL GOVERNMENTS AND PUBLIC AUTHORITIES

(a) Independent auditors retained to conduct single audits for local governments or public authorities may be notified by the Department of Human Resources (Department) or the Local Government Commission of problem areas that the audit should address.

(b) The Local Government Commission has the responsibility of reviewing single audits for compliance with OMB Circular A-128 and accepting those single audits for the state that have been determined to comply with federal and state requirements. Whenever a single audit is performed on a local government or public authority that received funds from the Department during the fiscal year audited, the Local Government Commission shall provide the Department with a copy of the audit report(s).

(c) Upon receipt of the audit report from the Local Government Commission, the Department shall send a letter to the local government or public authority requesting the submission of a corrective action plan which addresses each finding and recommendation contained in the auditor's report(s) on compliance and internal control and schedule of questioned cost. The corrective action plan shall include the following information:

- (1) Specific concurrence or non-concurrence with each finding, recommendation, or questioned cost;
- (2) If the local government or public authority agrees with a finding, recommendation or questioned cost, a description of the specific corrective actions taken or planned, including time schedules, to settle the finding or implement the recommendation; and
- (3) If the local government or public authority disagrees with a finding, recommendation or questioned cost, the specific reason(s) and legal or regulatory basis for the disagreement.

The local government or public authority shall submit the corrective action plan to the Controller of the Department within 30 days after receipt of the request.

(d) Following receipt of the corrective action plan by the Department, relevant portions of the audit report(s) and corrective action plan shall be sent to the chief fiscal officer of each division responsible for administration of the programs affected for coordination of a Division position on the corrective actions planned or taken.

(e) The Department or any affected division of the Department may request any additional information deemed necessary for clarification of an audit finding, recommendation, questioned cost or the corrective action plan. The local government or public authority shall provide the information to the requesting official within 30 days after the receipt of the request. If additional information or clarification from the independent auditor is requested, the local government or public authority shall direct its auditor to provide the information requested to the requesting official within the 30 day response time.

(f) If the chief fiscal officer of an affected division has reason to believe that due professional care was not used in conducting a single audit or if a local government or public authority or their independent auditor is unwilling or unable to provide clarification or additional information requested by an official of the Department, a written request for review of the auditor's work papers may be filed with the Controller of the

Department. The Controller shall make or arrange for any review of the auditor's work papers deemed necessary for timely resolution of single audit findings, recommendations, or questioned cost.

(g) Following receipt of any additional information requested, the chief fiscal officer of an affected division shall prepare a recommendation to accept or reject the corrective action plan for each fiscal compliance finding, recommendation or questioned cost. The Director of an affected division shall prepare a recommendation to accept or reject the corrective action plan for each program-specific compliance finding or recommendation. If the corrective action plan is rejected, the reasons for the rejection and an acceptable corrective action will be specified. These recommendations will be forwarded to the Controller of the Department for coordination of a Departmental position on the corrective action plan.

(h) The Secretary of the Department shall provide the local government or public authority with a written determination which accepts or rejects the corrective action plan for each audit finding, recommendation or questioned cost that pertains to or otherwise affects a program(s) of the Department. If the corrective action plan is rejected the reasons for the rejection and an acceptable corrective action will be specified in the determination letter. If the corrective action plan indicates that the proposed corrective action for nonmonetary findings has not been implemented, the determination on all nonmonetary findings shall specify the time by which the local government or public authority shall implement the corrective action if different from the time proposed in the corrective action plan. The determination on all questioned costs or other charges to the Department shall state whether the cost or other charge is allowable or unallowable for reimbursement to the local government or public authority under applicable laws and regulations. If a cost or other charge to the Department is determined to be unallowable for reimbursement, the determination letter shall require full monetary repayment to the Department within 60 days of the date of the determination letter. The amount of any cost or other charge determined to be unallowable shall constitute a debt due the State of North Carolina until repayment in full is received by the Department.

(i) A determination by the Secretary of the Department required under Paragraph (h) of this Rule shall become final unless timely notice of appeal is filed in accordance with G.S. 150B-23.

(j) Upon timely notice of appeal filed in accordance with G.S. 150B-23 monetary repayment or implementation of a corrective action required under Paragraph (h) of this Rule will be suspended only for individual determinations or parts of a determination specifically disputed in the appeal. Interest may be charged under the conditions specified under Paragraph (k) of this Rule on the amount of any cost or other charge determined to be unallowable under Paragraph (h) of this Rule.

(k) Except where otherwise provided by statutes or regulations, Federal agencies are required to charge interest on overdue amounts in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal. If a Federal agency charges the Department interest on the Federal share of an overdue amount from a local government or public authority, the Department shall charge the interest to the local government or public authority.

(l) If a local government or public authority fails to make repayment of an amount due to the Department or obtain Department approval of a deferred payment plan by the "due date" specified in Paragraph (h) of this Rule the Department shall offset the amount of the disallowance or any portion thereof remaining unpaid and any interest due from subsequent reimbursements or other amounts due the local government or public authority until the amount due is fully recovered.

(m) A local government or public authority may propose a plan for repayment of amounts determined to be unallowable on an installment basis. The local government or public authority must certify that it is unable to make repayment by the "due date" specified in Paragraph (h) of this Rule and that commercial financing can not be obtained. Repayment of the federal share of amounts determined to be unallowable will not be allowed on an installment basis unless the Federal grantor agency approves of the installment plan or otherwise allows the Department the same installment repayment terms. Interest may be charged as specified under Paragraph (k) of this Rule while awaiting Federal approval of an installment plan or on installment payments.

(n) If a local government or public authority fails to submit the corrective action plan required under Paragraph (c) of this Rule or additional information requested under Paragraph (e) of this Rule or fails to implement corrective action within the timeframe established by the Secretary under Paragraph (h) of this Rule, the Secretary of the Department or the Director of the requesting Division may suspend all or any portion

of the administrative and indirect cost funding administered by the Department until such time as the required corrective action plan or additional information is submitted as requested. Alternatively, the Secretary of the Department may issue a unilateral determination on the audit findings, recommendations, and questioned cost requiring any corrective action and repayment of questioned cost deemed necessary for compliance with the laws and regulations governing assistance programs affected.

Statutory Authority G.S. 143B-10(j); 143B-139.1; 143B-139.3; 159-34.

**.0419 AUDITS OF HOSPITALS,
NONPROFITS, HIGHER EDUCATION
AGENCIES**

(a) Public and private hospitals, public and private institutions of higher education and quasi-public and private nonprofit organizations [recipient organization(s)] which receive state and/or federal funds of twenty-five thousand dollars (\$25,000) or more from the Department of Human Resources (Department) in the form of grants, cost reimbursement contracts or other forms of financial assistance agreements shall have an audit made as a condition of receipt of funds for each fiscal year of the recipient organization in which financial assistance funds are received. The audit shall be performed in accordance with OMB Circular A-110, Attachment F.2.h. until OMB Circular A-133 is issued. After issuance of OMB Circular A-133, audits shall be performed in accordance with the provisions of that Circular.

(b) The University of North Carolina and public hospitals operated by the State of North Carolina have annual audits performed by the State Auditor. The scope of such audits and the contents of the audit reports are the responsibility of the State Auditor and shall be accepted and relied upon by the Department unless a cognizant Federal agency finds that such audits do not meet the requirements of OMB Circular A-110, A-133 after issuance, or A-128.

(c) The above audit requirements are not applicable to procurements. However, the purpose and substance of an agreement rather than form shall govern whether financial assistance was provided. A subrecipient is an entity that receives financial assistance passed down from the prime recipient. The subrecipient's responsibility is to help the recipient meet the requirements of the assistance award. The test for a subrecipient relationship is whether financial assistance is received from a recipient to carry out a program. A vendor is an entity that receives a procurement

contract for goods or services. The vendor's responsibility is to meet the requirements of the procurement contract.

(d) The above audit requirements are not intended to replace a request for submission of audit reports in connection with requests for direct appropriation of State Aid by the General Assembly through the Secretary of the Department for recommendations to the Governor and the Advisory Budget Commission and the General Assembly in accordance with G.S. 159-34.

(e) The above audit requirements are not intended to replace requirements for submission of a financial audit report or financial information by the Department in connection with applications for funding or licensure, provider certification or cost reporting, and other purposes not related to provision of State and Federal financial assistance.

(f) The Secretary of the Department may grant a waiver of any or all of the audit standards to a recipient organization who does not receive any grants, contracts or other financial assistance financed in whole or in part with Federal funds when an audit of assistance financed with State funds is not otherwise required by law and is not cost effective.

(g) Each recipient organization shall be required to submit one copy of the audit report and corrective action plan required in Paragraph (a) of this Rule to each division of the Department which provided State and/or Federal financial assistance during the fiscal year covered by such audit within 30 days from the date the report is issued by the auditor, and no later than the 13th month following the close of the recipient organization's fiscal year in which assistance was received.

(h) Upon receipt of the audit report the Department shall conduct a desk review of the audit report to determine if the reporting standards required in OMB Circular A-110 or A-133 when it is issued have been met. If an audit received from a recipient organization does not meet the standards required in OMB Circular A-110 or A-133 when it is issued, the Secretary of the Department shall issue a letter of determination to the recipient organization rejecting the audit and listing the required standards that were not met. The recipient organization shall be allowed no more than 90 days from the date of receipt of the Secretary's determination letter to submit a revised audit report which meets the standards required in OMB Circular A-110 or A-133 when it is issued. If the recipient organization fails to submit an audit report revised in accordance with the determination letter, the Secretary may suspend further financial assistance payments to the

recipient organization and/or subject the recipient organization to an audit or compliance review by the Department or the State Auditor.

(i) The Department or any affected division of the Department may request any additional information deemed necessary for clarification of an audit finding, recommendation, questioned cost or the corrective action plan. The recipient organization shall provide the information to the requesting official within 30 days after the receipt of the request. If additional information or clarification from the independent auditor is requested, the recipient organization shall direct their auditor to provide the information requested to the requesting official.

(j) If the Department has reason to believe that due professional care was not used in conducting the audit required under OMB Circular A-110 or A-133 when it is issued, or if the recipient organization or their auditor is unwilling or unable to provide clarification or additional information requested by an official of the Department, the Controller of the Department may make or arrange for any review of the auditor's work papers deemed necessary for timely resolution of the audit findings, recommendations, or questioned cost.

(k) The Secretary of the Department shall provide the recipient organization with a written determination which accepts or rejects the corrective action plan for each audit finding, recommendation or questioned cost that pertains to or otherwise affects a program(s) of the Department. If the corrective action plan is rejected the reasons for the rejection and an acceptable corrective action will be specified in the determination letter. If the corrective action plan indicates that the proposed corrective action for nonmonetary findings has not been implemented, the determination on all nonmonetary findings shall specify the time by which the local government or public authority shall implement the corrective action if different from the time proposed in the corrective action plan. The determination on all questioned cost or other charges to the Department shall state whether the cost or other charge is allowable or unallowable for reimbursement to the recipient organization under applicable laws, regulations and other provisions of assistance agreements. If a cost or other charge to the Department is determined to be unallowable for reimbursement, the determination letter shall require full monetary repayment to the Department within 60 days of the date of the determination letter. The amount of any cost or other charge determined to be unallowable shall constitute a debt due the State of

North Carolina until repayment in full is received by the Department.

(l) A determination by the Secretary of the Department required under Paragraph (k) or Paragraph (h) of this Rule shall become final unless timely notice of appeal is filed in accordance with G.S. 150B-23.

(m) Upon timely notice of appeal filed in accordance with G.S. 150B-23 monetary repayment or implementation of a corrective action required under Paragraph (k) of this Rule will be suspended only for individual determinations or parts of a determination specifically disputed in the appeal. Interest may be charged under the conditions specified under Paragraph (n) of this Rule on the amount of any cost or other charge determined to be unallowable under Paragraph (k) of this Rule.

(n) Except where otherwise provided by statutes or regulations, Federal agencies are required to charge interest on overdue amounts in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal. If a Federal agency charges the Department interest on the Federal share of an overdue amount from a recipient organization, the Department shall charge the interest to the recipient organization.

(o) If a recipient organization fails to make repayment of an amount due to the Department or obtain Department approval of a deferred payment plan by the "due date" specified in Paragraph (k) of this Rule the Department shall offset the amount of the disallowance or any portion thereof remaining unpaid and any interest due from subsequent reimbursements or other amounts due the recipient organization until the amount due is fully recovered.

(p) A recipient organization may propose a plan for repayment of amounts determined to be unallowable on an installment basis. The recipient organization must certify that it is unable to make repayment by the "due date" specified in Paragraph (k) of this Rule and that commercial financing can not be obtained. Repayment of the federal share of amounts determined to be unallowable will not be allowed on an installment basis unless the Federal grantor agency approves of the installment plan or otherwise allows the Department the same installment repayment terms. Interest may be charged as specified under Paragraph (n) of this Rule while awaiting Federal approval of an installment plan or on installment payments.

(q) If a recipient organization fails to submit the corrective action plan required under Paragraph (a) of this Rule or additional information

requested under Paragraph (i) of this Rule or fails to implement corrective action within the timeframe established by the Secretary under Paragraph (k) of this Rule, the Secretary of the Department or the Director of the requesting Division may suspend payment to the recipient organization of all or any portion of the administrative and indirect cost funding administered by the Department until such time as the required audit, corrective action plan or additional information is submitted as requested. Alternatively, the Secretary of the Department may issue a unilateral determination on the audit findings, recommendations, and questioned cost requiring any corrective action and repayment of questioned cost deemed necessary for compliance with the laws and regulations governing assistance programs affected.

Statutory Authority G.S. 143B-10(j); 143B-139.1.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Facility Services intends to repeal rule(s) cited as 10 NCAC 3D .0101 - .0108, .0110 - .0115, .0201 - .0203, .0301 - .0302, .0401 - .0412, .0501 - .0516, .0601 - .0608, .0610 - .0616, .0701; and adopt rule(s) cited as 10 NCAC 3D .0801 - .0816, .0901 - .0926, .1001 - .1004, .1101 - .1104, .1201, .1301, .1401 - .1406, .1501 - .1502, .1601 - .1603.

The proposed effective date of this action is December 1, 1989.

The public hearing will be conducted at 9:30 a.m. on September 15, 1989 at Division of Facility Services, 701 Barbour Drive, Room 201, Raleigh, North Carolina 27603.

Comment Procedures: Written comments concerning the rules by September 15, 1989 to Lynda McDaniel, 701 Barbour Drive, Raleigh, North Carolina 27603. Oral comments may be presented at the hearing.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3D - RULES AND REGULATIONS GOVERNING AMBULANCE SERVICE

SECTION .0100 - DEFINITIONS (REPEALED)

.0101 AMBULANCE

.0102 EMERGENCY MEDICAL TECHNICIAN
.0103 AMBULANCE ATTENDANT
.0104 LICENSE
.0105 AMBULANCE PROVIDER
.0106 HIGHWAY OR STREET
.0107 APPROVED
.0108 MOTOR VEHICLE

Statutory Authority G.S. 131E-156; 143B-165; 143B-165(9).

.0110 PATIENT
.0111 QUALIFIED EMT INSTRUCTOR
.0112 APPROVED TEACHING INSTITUTION
.0113 COMMISSION
.0114 OFFICE OF EMERGENCY MEDICAL SERVICES
.0115 MEDICAL CREW MEMBER

Statutory Authority G.S. 131E-156; 131E-159(b); 143B-165(9); 1984 S.L., c. 1034.

SECTION .0200 - AMBULANCE EQUIPMENT (REPEALED)

.0201 MEDICAL EQUIPMENT
.0202 EXTRICATION AND ACCESS EQUIPMENT
.0203 OTHER EQUIPMENT

Statutory Authority G.S. 131E-157(a); 143B-165(9).

SECTION .0300 - WEAPONS AND EXPLOSIVES (REPEALED)

.0301 WEAPONS AND EXPLOSIVES FORBIDDEN
.0302 LAW ENFORCEMENT OFFICERS

Statutory Authority G.S. 143B-165.

SECTION .0400 - SANITATION REQUIREMENTS (REPEALED)

.0401 INTERIOR
.0402 EQUIPMENT
.0403 LINEN
.0404 MEDICAL SUPPLIES
.0405 PILLOWS AND MATTRESSES
.0406 SOILED SUPPLIES
.0407 SURFACES
.0408 BLANKETS AND HAND TOWELS
.0409 IMPLEMENTS INSERTED IN NOSE OR MOUTH
.0410 COMMUNICABLE DISEASE
.0411 STORAGE
.0412 LAVATORY FACILITIES

Statutory Authority G.S. 131E-157(a); 143B-165(9).

SECTION .0500 - VEHICLE AND EQUIPMENT
CRITERIA (REPEALED)

- .0501 INTERIOR DIMENSIONS
- .0502 INSPECTION CERTIFICATE
- .0503 WARNING DEVICES
- .0504 VEHICLE BODY
- .0505 OXYGEN CYLINDERS
- .0506 EQUIPMENT SECURED
- .0507 DOORS
- .0508 WINDOWS
- .0509 REAR-VIEW MIRROR
- .0510 SEAT BELTS
- .0511 SPARE TIRE
- .0512 REPAIR EQUIPMENT
- .0513 DISPLAYED PERMIT
- .0514 PERMIT
- .0515 PERMITTED AMBULANCE
- .0516 AMBULANCE LETTERING:
MARKINGS: SYMBOLS AND EMBLEMS

*Statutory Authority G.S. 131E-156;
131E-157(a); 143B-165; 143B-165(9); 143-508.*

SECTION .0600 - REQUIREMENTS FOR
CERTIFICATION OF AMBULANCE
ATTENDANT AND EMERGENCY MEDICAL
TECHNICIAN (REPEALED)

- .0601 REQUIREMENT
- .0602 APPLICATION
- .0603 CERTIFICATE
- .0604 PHYSICAL EXAMINATION
- .0605 CHARACTER AND TEMPERAMENT
- .0606 APPEARANCE
- .0607 AGE
- .0608 LICENSES

*Statutory Authority G.S. 131E-158;
131E-159(a); 131E-159(b); 131E-161; 143B-
165.*

- .0610 SUBSTITUTION OF RN FOR
EMERGENCY MEDICAL TECHNICIAN
- .0611 PROCEDURES FOR DENIAL:
SUSPENSION: REVOCATION
- .0612 REASONS FOR DENIAL: SUSPENSION:
REVOCATION
- .0613 TRAINING FOR INITIAL
CERTIFICATION
- .0614 TRAINING FOR RECERTIFICATION
- .0615 EXAMINATION FOR INITIAL
CERTIFICATION
- .0616 EXAMINATION FOR RECERTIFICATION

*Statutory Authority G.S. 131E-158;
131E-159(a); 131E-159(b); 1984 S.L., c. 1034.*

SECTION .0700 - PERSONNEL REQUIREMENTS
FOR CATEGORY IV AMBULANCES
(REPEALED)

- .0701 PERSONNEL REQUIREMENTS FOR

CATEGORY IV AMBULANCES

*Statutory Authority G.S. 131E-165(a);
143B-165(9).*

SECTION .0800 - DEFINITIONS

.0801 AMBULANCE

(a) "Ambulance" means any privately or publicly owned motor vehicle, aircraft, or vessel that is specifically designed, constructed, or modified and equipped; and is intended to be used for and is maintained or operated for the transportation on the streets, highways, waterways or airways of this state of persons who are sick, injured, convalescent, or otherwise incapacitated or helpless.

(b) An ambulance must be issued a permit by the Department of Human Resources, Division of Facility Services, Office of Emergency Medical Services in one of the following categories:

- (1) "Category I Ambulance" means an emergency vehicle used to transport patients with emergency traumatic or medical conditions or patients for which the need for emergency medical care is anticipated either at the scene of the emergency or enroute to a medical facility. Category I ambulances may be used to transport all types of patients.
- (2) "Category II Ambulance" means a vehicle used solely to transport sick or infirm patients, having a known, non-emergency medical condition, on a scheduled basis between facilities or between a residence and a facility. Category II ambulances must not be used to transport patients defined under any other category of ambulance.
- (3) "Category III Ambulance" means an emergency vehicle specifically designed and equipped to transfer critically ill patients from one medical facility to another or as ground support to a permitted air ambulance program. The patient care compartment of Category III ambulances must be staffed by appropriately certified or licensed personnel approved for the mission by the program medical director. Category III ambulances must be utilized as part of an organized critical care transport program and may not be used in place of any other category of ambulance defined in this Subchapter.
- (4) "Category IV Ambulance" means an aircraft specifically designed and equipped to transport patients. Category IV ambulances must be operated as either:

- (A) Part of an approved mobile intensive care program and must comply with the criteria as outlined in 21 NCAC 32H; or
- (B) Part of an air ambulance program which complies with 21 NCAC 32H .1004.
- (5) "Category V Ambulance" means a watercraft specifically designed and equipped to routinely transport patients.

Statutory Authority G.S. 131E-156; 143B-165(9).

.0802 EMERGENCY MEDICAL TECHNICIAN

The term "emergency medical technician" (EMT) means a person trained in a program approved by the Office of Emergency Medical Services who has been certified or recertified by the Commission as qualified to perform the skills enumerated in Rule .1406 of this Subchapter.

Statutory Authority G.S. 143B-165.

.0803 AMBULANCE ATTENDANT

The term "ambulance attendant" (AA) means a person trained in a program approved by the Office of Emergency Medical Services, who has been certified or recertified by the Commission to assist emergency medical technicians in performing the skills enumerated in Rule .1405 of this Subchapter.

Statutory Authority G.S. 143B-165.

.0804 AMBULANCE PROVIDER

"Ambulance provider" means an individual, firm, corporation, government agency, or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

Statutory Authority G.S. 143B-165(9).

.0805 HIGHWAY OR STREET

The term "highway or street" shall mean the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purpose of vehicle traffic. The terms "highway" or "street" or their cognates are synonymous.

Statutory Authority G.S. 143B-165.

.0806 APPROVED

The term "approved" shall mean approved by the North Carolina Medical Care Commission or the North Carolina Board of Medical Examiners.

Statutory Authority G.S. 143B-165.

.0807 PATIENT

"Patient" means an individual who is sick, injured, convalescent, or otherwise incapacitated or helpless where the need for some medical assistance might be anticipated while being transported to or from a medical facility.

Statutory Authority G.S. 143B-165(9).

.0808 QUALIFIED EMT INSTRUCTOR

The term "qualified EMT instructor" means a person who instructs or coordinates EMS training programs and continuing education programs that meet the criteria defined in Rule .1402 of this Subchapter.

Statutory Authority G.S. 131E-159(b).

.0809 APPROVED TEACHING INSTITUTION

The term "approved teaching institution" means any agency with a current memorandum of agreement with the Office of Emergency Medical Services to provide emergency medical services training programs. Approved teaching institutions must meet the criteria found in Rule .1401 of this Subchapter.

Statutory Authority G.S. 131E-159(b).

.0810 COMMISSION

The term "Commission" means the North Carolina Medical Care Commission.

Statutory Authority G.S. 131E-159(b).

.0811 OFFICE OF EMERGENCY MEDICAL SERVICES

The term "Office of Emergency Medical Services" means a section of the Division of Facility Services of the North Carolina Department of Human Resources located at 701 Barbour Drive, Raleigh, North Carolina 27603.

Statutory Authority G.S. 131E-159(b).

.0812 MEDICAL CREW MEMBER

The term "medical crew member" means a physician, registered nurse, EMT-paramedic, EMT-advanced intermediate, EMT-intermediate, EMT-defibrillation technician or EMT who holds a current North Carolina license or certification and who has completed additional training in altitude physiology, EMS communications, in-flight emergencies, and aircraft and flight safety conducted under the direct

guidance of the medical director for the program in which he functions.

Statutory Authority G.S. 131E-156; 143B-165(9).

.0813 PHYSICIAN

The term "physician" means an individual licensed by the Board of Medical Examiners to practice medicine in the State of North Carolina.

Statutory Authority G.S. 143B-165.

.0814 REGISTERED NURSE

The term "registered nurse" means an individual licensed by the Board of Nursing to practice nursing in the State of North Carolina.

Statutory Authority G.S. 143B-165.

.0815 AMBULANCE SERVICE AREA

The term "ambulance service area" means a geographical area with boundaries defined by the county or EMS provider serving that area.

Statutory Authority G.S. 143B-165.

.0816 CRITICAL CARE TRANSPORT PROGRAM

The term "critical care transport program" means a defined system of care during transport from one medical facility to another for patients suffering from a specific injury or medical condition (i.e., neonatal, high risk obstetrics, burn, etc.). Such programs must include, at a minimum, a designated physician medical director and written transfer protocols.

Statutory Authority G.S. 143B-165.

SECTION .0900 - VEHICLES

.0901 INTERIOR DIMENSIONS

(a) Any vehicle issued a permit as a Category I or Category III ambulance must have the following minimum patient compartment interior dimensions:

- (1) The length, measured on the floor from the back of the driver's compartment, driver's seat or partition to the inside edge of the rear loading doors, must be at least 108 inches.
- (2) The width of the compartment after cabinet and cot installation must provide at least 11 inches of clear aisle walkway between the primary cot and the squad bench, a second cot or curbside wall of the vehicle.
- (3) The height must be at least 52 inches over the patient area, measured from the ap-

proximate center of the floor, exclusive of cabinets or equipment.

(b) Any vehicle issued a permit as a Category II ambulance to an ambulance provider must have the following minimum patient compartment interior dimensions:

- (1) The length, measured on the floor from the back of the driver's compartment, driver's seat, or partition to the inside edge of the rear loading doors must be at least 102 inches.
- (2) The width of the compartment after cabinet and cot installation must provide for at least 11 inches of clear aisle walkway between the cot and the squad bench, a second cot or the curbside wall of the vehicle.
- (3) The height must be at least 48 inches over the patient area measured from the approximate center of the floor, exclusive of cabinets or equipment.

(c) Category IV ambulances must have:

- (1) A patient care area sufficiently isolated from the cockpit to minimize inflight distractions and interference while providing sufficient working space to render patient care; and
- (2) Door openings of sufficient size to permit the safe loading and unloading of a person occupying a litter.

(d) Category V ambulances must have a patient care area which:

- (1) Provides access to the head, torso, and lower extremities of the patient while providing sufficient working space to render patient care;
- (2) Is covered to protect the patient and the technician from the elements; and
- (3) Has an opening of sufficient size to permit the safe loading and unloading of a person occupying a litter.

Statutory Authority G.S. 131E-157(a).

.0902 INSPECTION CERTIFICATE

Any vehicle issued a permit as a Category I, II, or III ambulance must have a current safety equipment inspection certificate issued by the North Carolina Division of Motor Vehicles.

Statutory Authority G.S. 131E-157(a).

.0903 WARNING DEVICES

(a) Each Category I ambulance and Category III ambulance for which a permit is issued must have emergency warning lights and audible warning devices other than those required by Federal Motor Vehicle Safety Standards. All

warning devices must function in the manner in which they were designed to function.

(b) Each Category II ambulance for which a permit is issued shall not be equipped, permanently or temporarily, with emergency warning devices, audible or visual, other than those required by Federal Motor Vehicle Safety Standards.

(c) Each Category V ambulance for which a permit is issued must have a 360 degree beacon warning light in addition to warning devices required in Chapter 75A Article 1 of the North Carolina Statutes.

Statutory Authority G.S. 131E-157(a).

.0904 VEHICLE BODY

The ambulance vehicle body must be free from defects that could adversely affect the safe operation of the vehicle.

Statutory Authority G.S. 131E-157(a).

.0905 OXYGEN CYLINDERS

Oxygen cylinders used in ambulance vehicles must bear static pressure date and must be replaced or refilled as soon as possible after use.

Statutory Authority G.S. 131E-157(a).

.0906 EQUIPMENT SECURED

All equipment in the patient compartment must be adequately secured.

Statutory Authority G.S. 131E-157(a).

.0907 DOORS

All doors leading into passenger and patient compartment must open properly and close securely with all hardware working properly.

Statutory Authority G.S. 131E-157(a).

.0908 WINDOWS

Windows and windshield must be clear and free of cracks.

Statutory Authority G.S. 131E-157(a).

.0909 REAR-VIEW MIRROR

Rear-view mirror utilized in Category I, II, or III ambulances must be free of cracks and blemishes.

Statutory Authority G.S. 131E-157(a).

.0910 SEAT BELTS

Seat belts must be in place and in a useable condition for all Category I, II, III, and IV ambulances.

Statutory Authority G.S. 131E-157(a).

.0911 SPARE TIRE

Ambulance vehicles issued permits as Category I, II, or III must carry a serviceable spare tire and equipment to change a flat tire or unserviceable tire. An acceptable alternative to this requirement is an immediately available service vehicle or a plan for the immediate dispatch of another ambulance.

Statutory Authority G.S. 131E-157(a).

.0912 DISPLAYED PERMIT

Any ambulance, after meeting the requirements of the rules contained in this Subchapter, must display a current ambulance permit issued by the Office of Emergency Medical Services at such a place on the vehicle as designated by a representative of the Office of Emergency Medical Services, indicating the vehicle has been inspected in accordance with the rules contained in this Subchapter.

Statutory Authority G.S. 131E-157(a).

.0913 PERMIT

(a) The ambulance permit must include the following information:

- (1) vehicle identification number;
- (2) permit number;
- (3) ambulance provider identification number;
- (4) identification of inspector; and
- (5) expiration date.

(b) Ambulance permits issued shall be valid for a period not to exceed one year. The Office of Emergency Medical Services may issue temporary permits for vehicles not meeting required standards for a period not to exceed 60 days, when it determines that the best interest of the public will best be served by doing so.

(c) No person shall display or cause to be displayed or permit to be displayed or to knowingly possess, transfer, remove, imitate, or reproduce an ambulance permit, except by direction of the Office of Emergency Medical Services.

(d) An ambulance shall be permitted in only one category.

Statutory Authority G.S. 131E-157(a).

.0914 PERMIT REQUIRED

No vehicle, aircraft, or watercraft shall be deemed an ambulance for the purpose of law

unless the said vehicle, aircraft, or watercraft has been issued an ambulance permit by the Office of Emergency Medical Services, in accordance with this Subchapter. It shall be the responsibility of the ambulance provider to apply to the Office of Emergency Medical Services for a permit to operate that ambulance.

Statutory Authority G.S. 131E-157(a).

.0915 AMBULANCE LETTERING:

MARKINGS: SYMBOLS AND EMBLEMS

(a) Each ambulance must have the name of the ambulance provider permanently displayed on each side of the vehicle in letters at least three inches high.

(b) Category II ambulances must have the words "CONVALESCENT AMBULANCE" permanently lettered on both sides and on the rear of the vehicle body in at least five inch letters.

(c) Category II ambulances may not use emergency medical symbols, such as the Star of Life, block design cross, or any other medical markings, symbols, or emblems, including the word "EMERGENCY," on the vehicle or in any advertisement, publication, or literature pertaining to Category II ambulance services.

History Note: Statutory Authority G.S. 131E-157(a).

.0916 INTERIOR

The interior of the ambulance and the equipment within the ambulance shall be sanitary and maintained in good working order at all times.

Statutory Authority G.S. 131E-157(a).

.0917 EQUIPMENT

Equipment shall be of smooth and easily cleanable construction.

Statutory Authority G.S. 131E-157(a).

.0918 LINEN

(a) Freshly laundered linen or disposable linen shall be used on cots and pillows and linen shall be changed after each patient is transported.

(b) Clean linen storage shall be provided on each ambulance.

Statutory Authority G.S. 131E-157(a).

.0919 MEDICAL SUPPLIES

Closed compartments shall be provided within the ambulance for medical supplies.

Statutory Authority G.S. 131E-157(a).

.0920 PILLOWS AND MATTRESSES

Pillows and mattresses shall be kept clean and in good repair.

Statutory Authority G.S. 131E-157(a).

.0921 SOILED SUPPLIES

Closed containers shall be provided for soiled supplies.

Statutory Authority G.S. 131E-157(a).

.0922 SURFACES

Exterior and interior surfaces of ambulance shall be cleaned routinely.

Statutory Authority G.S. 131E-157(a).

.0923 BLANKETS AND HAND TOWELS

Blankets and hand towels used in any ambulance shall be clean.

Statutory Authority G.S. 131E-157(a).

.0924 IMPLEMENTS INSERTED IN NOSE OR MOUTH

(a) Implements inserted into the patient's nose or mouth shall be single-service, wrapped and properly stored and handled.

(b) When multi-use items are used, the local health care facilities and/or County Health Department should be consulted for instructions in sanitation and handling of such items.

Statutory Authority G.S. 131E-157(a).

.0925 INFECTION CONTROL

When an ambulance has been utilized to transport a patient known to the ambulance providers to have a communicable disease, it is the responsibility of the ambulance provider to ensure that the ambulance, including its equipment and supplies, is taken out of service until appropriately cleansed and disinfected according to local infection control policy.

Statutory Authority G.S. 131E-157(a).

.0926 STORAGE

(a) All storage spaces used for storage of linens, equipment, medical supplies and other supplies at base stations shall be kept clean and free from unnecessary articles.

(b) The contents shall be arranged so as to permit thorough cleaning.

Statutory Authority G.S. 131E-157(a).

SECTION .1000 - AMBULANCE EQUIPMENT

.1001 MEDICAL AND RELATED EQUIPMENT

(a) Category I ambulances for which permits are issued shall contain at least the following equipment exclusive of personal equipment carried by emergency medical technicians and ambulance attendants:

- (1) One portable aspirator capable of a minimum vacuum of 300 millimeters of mercury and a minimum air flow rate of 16 liters per minute with rapid drawdown time. A minimum of three, single use, non-opaque, one piece, rigid suction instruments and a suction rinsing water bottle must be supplied with this unit;
- (2) One each portable squeeze bag ventilation unit (bag and mask) in adult and child sizes with transparent face mask capable of low temperature operation (32 degrees F or below) and an attachment for oxygen hookup. A minimum of two transparent, flexible, disposable oxygen supply tubes must be supplied with each unit;
- (3) Six nonmetallic, oropharyngeal airways sanitarily stored together in separate sizes ranging from 55 millimeters through 115 millimeters;
- (4) One bite stick either commercially manufactured or made of three tongue blades taped together and padded;
- (5) One portable oxygen unit consisting of the following components: 360 liter (D size) or larger oxygen cylinder; yoke regulator with cylinder contents gauge (2000 pounds per square inch) and gravity or non-gravity dependent flow gauge (0-12 liters per minute minimum); a minimum of three transparent, nasal cannulas in adult and child sizes; and a minimum of three each, adult and child, disposable, transparent, oxygen masks with delivery tubes and headband. A full spare cylinder (D size) of oxygen for this unit shall be furnished and stored on the ambulance vehicle; oxygen tanks must show date of last static test;
- (6) One small, one medium, and one large size adult extrication collar and one pediatric size extrication collar;
- (7) One rigid short backboard. The minimum size must be 14 inches wide by 32 inches long. A stabilization device which is of the design to allow horizontal flexibility and vertical rigidity, equipped with chest and leg straps and accessories for stabilization of the head and neck may be substituted for the rigid short backboard;
- (8) One rigid long backboard a minimum of 16 inches wide by 72 inches long with two straps for patient stabilization and other accessories for stabilization of the head and neck;
- (9) Two sets of rigid padded board splints in the following sizes; three inches wide by 15 inches long, three inches wide by three feet long, and three inches wide by four and one-half feet long. Other splints, in kit form, of inflatable design or rigid laminated and high density polyurethane foam construction are acceptable. A kit must contain at least two full leg and two full arm splints;
- (10) One child and one adult size lower extremity traction splint with appropriate attachments;
- (11) Two sandbags constructed of a nonporous material for immobilization purposes. Minimum size must be two inches by four inches by 12 inches. A head immobilizer may be substituted for sandbags;
- (12) Twelve four inch by four inch sterile gauze pads individually packaged;
- (13) Six sterile five inch by nine inch absorbent dressings individually wrapped;
- (14) Twelve rolls of roller gauze;
- (15) Four rolls of adhesive tape;
- (16) Four sterile nonadhering, nonporous dressings for an open chest wound. Minimum size shall be three inches by eight inches;
- (17) Six triangular bandages;
- (18) Two pairs of five and one-half inches bandage shears;
- (19) Two sterile burn sheets, minimum size of 40 inches by 72 inches;
- (20) A total of 2000 cubic centimeters of sterile irrigating solution in plastic containers in addition to the fluids carried for intravenous use;
- (21) One emesis basin;
- (22) One obstetrical kit containing gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, a bulb syringe, and a receiving blanket;
- (23) One poison antidote kit containing syrup of ipecac, activated charcoal and a means of administering the proper dosage;
- (24) One each small, regular and large size aneroid blood pressure cuff and adult and pediatric stethoscopes. One stethoscope with adult and pediatric attachments is acceptable;

- (25) One sheet of rubber or heavy plastic, minimum size of 36 inches by 72 inches, or one body bag;
 - (26) One four wheeled, elevating cot with a minimum three inch thick pad with a nonporous cover. The cot must be equipped with restraining straps (chest and thigh area) of at least two inches in width. A crash stable fastener installed per the cot manufacturer's instructions and compatible with the model cot furnished must secure the specified cot to the floor or side wall;
 - (27) One additional stretcher with patient restraining straps and capable of being secured inside the patient compartment;
 - (28) Two sets of clean cot linen constructed of washable or disposable material in addition to a set on the cot (a set equals two sheets and one pillowcase);
 - (29) Two pillows covered with a nonporous material;
 - (30) Two blankets constructed of washable material; and
 - (31) One child restraint device to safely transport pediatric patients in the patient compartment of the ambulance.
- (b) Category II ambulances for which permits are issued shall contain at least the following equipment exclusive of personal equipment carried by personnel:
- (1) One portable aspirator capable of a minimum vacuum of 300 millimeters of mercury and a minimum air flow rate of 16 liters per minute with rapid drawdown time. A minimum of three, single use, non-opaque, one piece, rigid suction instruments and a suction rinsing water bottle must be supplied with this unit;
 - (2) One each portable squeeze bag ventilation unit (bag and mask) in adult and child sizes with transparent face mask capable of low temperature operation (32 degrees F or below) and an attachment for oxygen hookup. A minimum of two transparent, flexible, disposable oxygen supply tubes must be supplied with each unit;
 - (3) Six nonmetallic, oropharyngeal airways sanitarily stored together in separate sizes ranging from 55 millimeters through 115 millimeters;
 - (4) One bite stick either commercially manufactured or made of three tongue blades taped together and padded;
 - (5) One portable oxygen unit consisting of the following components: 360 liter (D size) or larger oxygen cylinder; yoke regulator with cylinder contents gauge (2000 pounds per square inch) and gravity or non-gravity dependent flow gauge (0-12 liters per minute); a minimum of three transparent, nasal cannulas in adult and child sizes; and a minimum of three each, adult and child, disposable, transparent, oxygen masks with delivery tubes and headband. A full spare cylinder (D size) of oxygen for this unit shall be furnished and stored on the ambulance vehicle; oxygen tanks must show date of last static test;
 - (6) Twelve four inch by four inch sterile gauze pads individually packaged;
 - (7) Six sterile five inch by nine inch absorbent dressings individually wrapped;
 - (8) Six rolls of roller gauze;
 - (9) Two rolls of adhesive tape;
 - (10) Three triangular bandages;
 - (11) Two pairs of five and one-half inches bandage shears;
 - (12) One emesis basin;
 - (13) One each small, regular and large size aneroid blood pressure cuff and adult and pediatric stethoscopes. One stethoscope with adult and pediatric attachments is acceptable;
 - (14) One four wheeled, elevating cot with a minimum three inch thick pad with a nonporous cover. The cot must be equipped with restraining straps (chest and thigh area) of at least two inches in width. A crash stable fastener installed per the cot manufacturer's instructions and compatible with the model cot furnished must secure the specified cot to the floor or side wall;
 - (15) Two sets of clean cot linen constructed of washable or disposable material in addition to a set on the cot (a set equals two sheets and one pillowcase);
 - (16) Two pillows covered with a nonporous material;
 - (17) Two blankets constructed of washable material;
 - (18) A firm board of minimum size 14 inches by 32 inches to support the back during manual heart compressions; and
 - (19) One child restraint device to safely transport pediatric patients in the patient compartment of the ambulance.
- (c) Category III ambulances for which permits are issued shall contain at least the following equipment exclusive of personal equipment carried by personnel:
- (1) One portable aspirator capable of a minimum vacuum of 300 millimeters of mercury and a minimum air flow rate of 16

- liters per minute with rapid drawdown time. A minimum of three, single use, non-opaque, one piece, rigid suction instruments and a suction rinsing water bottle must be supplied with this unit;
- (2) One each portable squeeze bag ventilation unit (bag and mask) in adult and child sizes with transparent face mask capable of low temperature operation (32 degrees F or below) and an attachment for oxygen hookup. A minimum of two transparent, flexible, disposable oxygen supply tubes must be supplied with each unit;
 - (3) Six nonmetallic, oropharyngeal airways sanitarly stored together in separate sizes ranging from 55 millimeters through 115 millimeters;
 - (4) One bite stick either commercially manufactured or made of three tongue blades taped together and padded;
 - (5) One portable oxygen unit consisting of the following components: 360 liter (D size) or larger oxygen cylinder; yoke regulator with cylinder contents gauge (2000 pounds per square inch) and gravity or non-gravity dependent flow gauge (0-12 liters per minute); a minimum of three transparent, nasal cannulas in adult and child sizes; and a minimum of three each, adult and child, disposable, transparent, oxygen masks with delivery tubes and headband. A full spare cylinder (D size) of oxygen for this unit shall be furnished and stored on the ambulance vehicle; oxygen tanks must show date of last static test;
 - (6) Twelve four inch by four inch sterile gauze pads individually packaged;
 - (7) Six sterile five inch by nine inch absorbent dressings individually wrapped;
 - (8) Six rolls of roller gauze;
 - (9) Two rolls of adhesive tape;
 - (10) Three triangular bandages;
 - (11) Two pairs of five and one-half inches bandage shears;
 - (12) One emesis basin;
 - (13) Two sterile burn sheets, minimum size of 40 inches by 72 inches;
 - (14) A total of 2000 cubic centimeters of sterile irrigating solution in plastic containers in addition to the fluids carried for intravenous use;
 - (15) One obstetrical kit containing gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, a bulb syringe, and a receiving blanket;
 - (16) One poison antidote kit containing syrup of ipecac, activated charcoal and a means of administering the proper dosage;
 - (17) One each small, regular and large size aneroid blood pressure cuff and adult and pediatric stethoscopes. One stethoscope with adult and pediatric attachments is acceptable;
 - (18) One four wheeled, elevating cot with a minimum three inch thick pad with a nonporous cover. The cot must be equipped with restraining straps (chest and thigh area) of at least two inches in width. A crash stable fastener installed per the cot manufacturer's instructions and compatible with the model cot furnished must secure the specified cot to the floor or side wall. A self contained transport incubator with stand and capable of being secured in the ambulance may be substituted;
 - (19) Two sets of clean cot linen constructed of washable or disposable material in addition to a set on the cot (a set equals two sheets and one pillowcase);
 - (20) Two pillows covered with a nonporous material;
 - (21) Two blankets constructed of washable material;
 - (22) A firm board of minimum size 14 inches by 32 inches to support the back during manual heart compressions; and
 - (23) One child restraint device to safely transport pediatric patients in the patient compartment of the ambulance.
- (d) Category IV ambulances for which permits are issued must have the following medical equipment immediately available to be placed on the aircraft:
- (1) One portable aspirator with rapid drawdown time capable of providing a minimum vacuum of 300 millimeters of mercury and a minimum air flow rate of 16 liters per minute up to the maximum operating altitude of the aircraft. A minimum of three, single use, non-opaque, one piece, rigid suction instruments and a suction rinsing water bottle must be supplied with this unit;
 - (2) One each portable squeeze bag ventilation unit (bag and mask) in adult and child sizes with transparent face mask capable of low temperature operation (32 degrees F or below) and an attachment for oxygen hookup. A minimum of two transparent, disposable oxygen supply tubes must be supplied with each unit;

- (3) Six nonmetallic, oropharyngeal airways sanitarly stored together in separate sizes ranging from 55 millimeters through 115 millimeters;
 - (4) One bite stick either commercially manufactured or made of three tongue blades taped together and padded;
 - (5) Oxygen unit containing a quantity of oxygen sufficient to supply an appropriate flow rate for the period of time it is anticipated oxygen will be needed, but not less than ten liters per minute for 30 minutes. The oxygen shall be carried in two separate containers, one of which must be portable. The portable oxygen unit shall have a yoke regulator with cylinder contents gauge, flow gauge, and DISS outlets;
 - (6) Twelve four inch by four inch sterile gauze pads individually packaged;
 - (7) Six sterile five inch by nine inch absorbent dressings individually wrapped;
 - (8) Twelve rolls of roller gauze;
 - (9) Four rolls of adhesive tape;
 - (10) Four sterile nonadhering, nonporous dressings for an open chest wound. Minimum size shall be 3 inches by 8 inches;
 - (11) Six triangular bandages;
 - (12) Two sterile burn sheets, minimum size of 40 inches by 72 inches;
 - (13) A total of 2000 cubic centimeters of sterile irrigating solution in plastic containers in addition to the fluids carried for intravenous use;
 - (14) One emesis basin;
 - (15) One IV pressure bag;
 - (16) An electronic means of measuring blood pressure while in flight;
 - (17) One stethoscope and manual blood pressure cuff;
 - (18) One ECG monitor/defibrillator;
 - (19) One complete kit for endotracheal intubation;
 - (20) One litter and attachment for securing the litter to the airframe inside the cabin of the aircraft. The litter must allow for elevation of the patient's head;
 - (21) One blanket constructed of washable material;
 - (22) Four air sick bags; and
 - (23) Four IV hooks.
- (e) The combination of medical equipment specified in Paragraph (d) of this Rule that is carried on a mission may be varied if, in the opinion of the medical director, such variation is in the best interest of patient care.
- (f) All rotary wing aircraft permitted as a Category IV ambulance must have the following flight equipment operational in the aircraft:
- (1) Two 360 channel VHF aircraft frequency transceivers;
 - (2) One VHF omnidirectional ranging (VOR) receiver;
 - (3) Attitude indicators;
 - (4) One nondirectional beacon (NDB) receiver;
 - (5) One glide scope receiver;
 - (6) One transponder with 4097 code, Mode C;
 - (7) Turn and slip indicator in the absence of three attitude indicators;
 - (8) Current FAA approved navigational aids and charts for the area of operations;
 - (9) Radar altimeter; and
 - (10) Loran navigational system.
- (g) Any fixed wing aircraft issued a permit as a Category IV ambulance must have a current "Instrument Flight Rules" certification.
- (h) Category V ambulances for which permits are issued shall contain at least the following equipment exclusive of personal equipment carried by personnel:
- (1) One portable aspirator capable of a minimum vacuum of 300 millimeters of mercury and a minimum air flow rate of 16 liters per minute with rapid drawdown time. A minimum of three, single use, non-opaque, one piece, rigid suction instruments and a suction rinsing water bottle must be supplied with this unit;
 - (2) One each portable squeeze bag ventilation unit (bag and mask) in adult and child sizes with transparent face mask capable of low temperature operation (32 degrees F or below) and an attachment for oxygen hookup. A minimum of two transparent, flexible, disposable oxygen supply tubes must be supplied with each unit;
 - (3) Six nonmetallic, oropharyngeal airways sanitarly stored together in separate sizes ranging from 55 millimeters through 115 millimeters;
 - (4) One bite stick either commercially manufactured or made of three tongue blades taped together and padded;
 - (5) One portable oxygen unit consisting of the following components: 360 liter (D size) or larger oxygen cylinder; yoke regulator with cylinder contents gauge (2000 pounds per square inch) and gravity or non-gravity dependent flow gauge (0-12 liters per minute); a minimum of three transparent, nasal cannulas in adult and child sizes; and a minimum of three each, adult and child, disposable, transparent, oxygen masks with delivery tubes and headband. A full spare cylinder (D size)

- of oxygen for this unit shall be furnished and stored on the ambulance vehicle; oxygen tanks must show date of last static test;
- (6) One small, one medium, and one large size adult extrication collar and one pediatric size extrication collar;
 - (7) One rigid short backboard. The minimum size must be 14 inches wide by 32 inches long. A stabilization device which is of the design to allow horizontal flexibility and vertical rigidity, equipped with chest and leg straps and accessories for stabilization of the head and neck may be substituted for the rigid short backboard;
 - (8) One floatable rigid long backboard a minimum of 16 inches wide by 72 inches long with two straps for patient stabilization and other accessories for stabilization of the head and neck;
 - (9) Two sets of rigid padded board splints in the following sizes; three inches wide by 15 inches long, three inches wide by three feet long, and three inches wide by four and one-half feet long. Other splints, in kit form, of inflatable design or rigid laminated and high density polyurethane foam construction are acceptable. A kit must contain at least two full leg and two full arm splints;
 - (10) One child and one adult size lower extremity traction splint with appropriate attachments;
 - (11) Two sandbags constructed of a nonporous material for immobilization purposes. Minimum size must be two inches by four inches by 12 inches. A head immobilizer may be substituted for sandbags;
 - (12) Twelve four inch by four inch sterile gauze pads individually packaged;
 - (13) Six sterile five inch by nine inch absorbent dressings individually wrapped;
 - (14) Twelve rolls of roller gauze;
 - (15) Four rolls of adhesive tape;
 - (16) Four sterile nonadhering, nonporous dressings for an open chest wound. Minimum size shall be three inches by eight inches;
 - (17) Six triangular bandages;
 - (18) Two pairs of five and one-half inches bandage shears;
 - (19) Two sterile burn sheets, minimum size of 40 inches by 72 inches;
 - (20) A total of 2000 cubic centimeters of sterile irrigating solution in plastic containers in addition to the fluids carried for intravenous use;

- (21) One emesis basin;
- (22) One obstetrical kit containing gloves, scissors or surgical blades, umbilical cord clamps or tapes, dressings, towels, perinatal pad, a bulb syringe, and a receiving blanket;
- (23) One poison antidote kit containing syrup of ipecac, activated charcoal and a means of administering the proper dosage;
- (24) One each small, regular and large size aneroid blood pressure cuff and adult and pediatric stethoscopes. One stethoscope with adult and pediatric attachments is acceptable;
- (25) One sheet of rubber or heavy plastic, minimum size of 36 inches by 72 inches, or one body bag;
- (26) One additional floatable litter with patient restraining straps and capable of being secured to the watercraft; and
- (27) Two blankets constructed of washable material.

Statutory Authority G.S. 131E-157(a); 143B-165(9).

.1002 EXTRICATION AND ACCESS EQUIPMENT

Category I ambulances for which permits are issued must contain at least the following equipment:

- (1) One ten-inch adjustable open end wrench;
- (2) One screwdriver with flat blade;
- (3) One screwdriver with Phillips blade;
- (4) One hacksaw with a minimum of six blades;
- (5) One four-pound hammer with 15-inch handle;
- (6) One pair of pliers, ten-inch vise-grip;
- (7) One 24-inch wrecking bar;
- (8) One 48-inch crowbar with pinch point;
- (9) Two pair heavy duty work gloves;
- (10) Two pair OSHA approved safety glasses; and
- (11) Two OSHA approved safety helmets.

Statutory Authority G.S. 131E-157(a); 143B-165(9).

.1003 OTHER EQUIPMENT

(a) Ambulances for which permits are issued as Category I, II, or III must have at least the following:

- (1) One operational flashlight;
- (2) A two and one-half pound fire extinguisher which must be a dry chemical or halogen, all-purpose type with a pressure gauge and approved by Underwriters La-

laboratories and U.S. Department of Transportation and must be mounted in a quick-release bracket;

- (3) "No Smoking" signs placed in cab/cabin and patient compartments; and
- (4) Electric lights to illuminate the patient compartment which are designed and located so that no glare is reflected into the driver's eyes or line of vision.

(b) Institutions/organizations which operate Category IV ambulances within the State of North Carolina shall be defined as Air Taxi Operators under Part 135 of Title XIV or Part 91 of the Federal Aviation Administration's Rules governing air operations and as such must hold a current certificate under these rules. In addition to the equipment required under this certification:

- (1) All Category IV ambulances must be equipped with an internal voice communication system to allow for communication between the medical crew and the flight crew; and
- (2) All rotary wing Category IV ambulances must be equipped with:

- (A) An external public address system;
- (B) A remote control external search light; and
- (C) A light which illuminates the tail rotor.

(c) Institutions/organizations which operate Category IV ambulances must submit to the Division of Facility Services, Office of Emergency Medical Services:

- (1) Copy of current Federal Aviation Administration Part 135 or 91 Certificate. A copy of this document is available for review at the Division of Facility Services, Office of Emergency Medical Services, located at 701 Barbour Drive, Raleigh, North Carolina or copies may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; and
- (2) Documentation that operation is coordinated with the local EMS system.

(d) In addition to that required in Paragraph (b) of this Rule, Category IV ambulances approved under Rule .0801(b)(4)(B) of these rules must be equipped with: A two-way voice radio licensed by the Federal Communications Commission capable of operation on any frequency required in the Public Safety Radio Service or Special Emergency Radio Service to allow communications on an as needed basis with public safety agencies such as fire departments, police departments, ambulance and rescue units, hospitals and local government agencies.

(e) In addition to that required in Paragraph (a) of this Rule, Category V ambulances must be equipped with:

- (1) Two floatable operational flashlights;
- (2) Two five pound fire extinguishers which must be a dry chemical, all-purpose type with a pressure gauge and approved by Underwriters Laboratories and U.S. Department of Transportation and must be mounted in a quick-release bracket;
- (3) Lighted compass;
- (4) Radio navigational aids as ADF (automatic directional finder) or LORAN-C, navigational radar, or other comparable radio equipment suited for water navigation; and
- (5) Marine radio.

(f) Institutions/organizations which operate Category V ambulances with the State of North Carolina must comply with all provisions of Chapter 75A Article 1 (Boating Safety Act) of the North Carolina General Statutes including all rules established by the North Carolina Wildlife Resources Commission under the authority of these statutes.

Statutory Authority G.S. 131E-157(a); 143B-165(9).

.1004 WEAPONS AND EXPLOSIVES FORBIDDEN

(a) Weapons and explosives shall not be worn or carried aboard an ambulance vehicle within the State of North Carolina when such ambulance vehicle is operating in any patient transport capacity or is available for such transport function.

(b) This Rule shall apply whether or not such weapons and explosives are concealed or visible.

(c) This Rule shall not apply to duly appointed law enforcement officers who are serving in an authorized law enforcement capacity while a passenger, occupant or attendant on an ambulance vehicle.

Statutory Authority G.S. 131E-157(a); 143B-165(9).

SECTION .1100 - COMMUNICATIONS

.1101 PUBLIC ACCESS TO AMBULANCE SERVICE

(a) All ambulance services shall utilize the public dial telephone network as the primary method for the public to request ambulance assistance. Within an emergency ambulance service area there shall exist a well-publicized telephone number for the public to call requesting emergency ambulance service.

(b) Calls for emergency ambulance assistance shall be answered by experienced telecommunicators with training in the management of calls for medical assistance. The point of public contact for answering calls for emergency medical ambulance assistance shall be operational and staffed on a continuous 24 hour per day basis.

(c) The telephone access point for emergency ambulance assistance shall be direct to emergency assistance, and shall not require any caller to be instructed to hang up the telephone and dial another telephone number. The person calling for emergency assistance shall never be required to talk with more than two persons to request emergency ambulance assistance.

Statutory Authority G.S. 131E-157(a); 143-509(4).

.1102 DISPATCH

All EMS providers shall operate an organized system of communications that provides for the dispatch of the closest, most appropriate emergency medical response unit to any given caller's request for assistance. The dispatch of all ambulances shall be in accordance with an official written county plan for the management of emergency ambulances.

Statutory Authority G.S. 131E-157(a); 143-509(4).

.1103 EQUIPMENT

Each ambulance shall be equipped with a two-way radio capable of establishing radio communications from within the ambulance service area of the county in which the ambulance is based to the county designated dispatch coordination center in that county and to the emergency department of the hospital(s) to which patients are routinely transported. The radio shall be licensed by the Federal Communications Commission (FCC).

Statutory Authority G.S. 131E-157(a); 143-509(4).

.1104 LICENSE REQUIRED

Copies of the FCC radio license shall be on file at the base of operations of the emergency ambulance service, and displayed at the control point for the two-way radio in accordance with FCC Rules Part 90.113.

Statutory Authority G.S. 131E-157(a); 143-509(4).

SECTION .1200 - AMBULANCE PROVIDERS

.1201 PERMIT TO OPERATE AMBULANCE SERVICE

(a) All EMS providers in North Carolina must receive a permit to operate an ambulance service, issued by the Office of Emergency Medical Services. In order to be issued a permit, the provider must:

- (1) Document compliance with Sections .0900, .1000, .1100, .1200, .1300, .1400, and .1500 of this Subchapter pertaining to vehicles, base facilities, personnel, and staffing;
- (2) Identify a specific ambulance service area to include the number and location of ambulance station headquarters and sub-stations and mechanism of public access and dispatch;
- (3) Identify the level of care that will be provided to the ambulance service area;
- (4) Document the vehicles to be used in providing the service (including Vehicle Identification Number) and identify the level of care for which each will be equipped;
- (5) Complete any reports and surveys required by the Office of Emergency Medical Services; and
- (6) Present documentation of approved franchise to operate an ambulance service within the county of proposed operation where applicable.

(b) Permits to operate an ambulance service shall be valid for a period not to exceed five years. Renewal may be accomplished by submission of the information required in this Rule and inspection by the Office of Emergency Medical Services.

(c) A permit to operate an ambulance service must be prominently displayed in a public place at the primary base of operation of the provider.

(d) The Office of Emergency Medical Services may issue a temporary permit to operate an ambulance service for providers not meeting the required standards for a period not to exceed 60 days, when it is in the best interest of the public.

Statutory Authority G.S. 143B-165(9).

SECTION .1300 - STAFFING AND PERSONNEL REQUIREMENTS

.1301 STAFFING FOR CATEGORY I AMBULANCES

(a) Category I and V ambulances must be staffed, at a minimum, by one Ambulance Attendant and one EMT while transporting a patient.

(b) Category III ambulances must be staffed, at a minimum, with one Ambulance Attendant responsible for vehicle operations, and one other appropriately licensed or certified individual to be responsible for patient care, whose level of licensure or certification is to be determined by the medical director of the program.

(c) Category IV ambulances must be staffed, at a minimum, with one medical crew member, in addition to the flight crew. The medical director shall assure that the level of training and number of medical crew members assigned to a specific mission is appropriate to provide the necessary patient care for that mission.

Statutory Authority G.S. 131E-158.

SECTION .1400 - TRAINING AND PERFORMANCE OF PERSONNEL

.1401 CRITERIA FOR APPROVED TEACHING INSTITUTIONS

An approved Teaching Institution as defined in Rule .0809 of this Subchapter shall provide, at a minimum, the following:

- (1) Emergency medical services training courses following guidelines established by the Commission;
- (2) Adequate number of instructors, with a minimum of one instructor for each ten students during practical skills instruction;
- (3) Equipment of the type and quantity needed to train students in the required practical skills;
- (4) Transfer of information necessary to allow students to sit for the appropriate state certification examination(s) to the Office of Emergency Medical Services; and
- (5) Attendance records of students for periodic review by the Office of Emergency Medical Services.

Statutory Authority G.S. 131E-159(b).

.1402 CRITERIA FOR QUALIFIED EMT INSTRUCTOR

A qualified EMT Instructor as defined in Rule .0808 of this Subchapter shall meet the following criteria:

- (1) Recognition from the Office of Emergency Medical Services that he meets the following Standards of the EMT Instructor/ Coordinator Recognition Program:
 - (a) Current North Carolina certification as an EMT, EMT-defibrillation technician, EMT-intermediate, EMT-advanced intermediate, or EMT-paramedic;

- (b) Two years experience within the last five years of direct patient contact in critical or emergency care;
 - (c) Current certification as an American Heart Association or American Red Cross cardiopulmonary resuscitation (CPR) instructor;
 - (d) Successful completion of the U.S. Department of Transportation's, EMT Instructor Course or equivalent;
 - (e) High school diploma or General Education Development certificate;
 - (f) A lead or assistant instructor for six basic rescuer CPR courses within the last three years; and
 - (g) Experience as an instructor for at least three basic EMT courses or complete practice teaching in one basic EMT course under the supervision of an experienced EMT instructor.
- (2) Annually attends an EMT Evaluator and Instructor/Coordinator Workshop offered by the Office of Emergency Medical Services.

Statutory Authority G.S. 131E-159(b).

.1403 TRAINING PROGRAMS

A training program intended to qualify personnel as Ambulance Attendants or Emergency Medical Technicians must be approved by the Office of Emergency Medical Services following guidelines established by the Commission and offered by an approved teaching institution.

Statutory Authority G.S. 131E-159(b).

.1404 AEROMEDICAL FLIGHT AND MEDICAL CREW MEMBERS

(a) All flight crew members who operate as the pilot in command and who fly rotary wing aircraft as air ambulances must meet, at a minimum, the following criteria:

- (1) 2,000 hours helicopter flight time;
- (2) Commercial rotocraft certificate;
- (3) Instrument helicopter rating;
- (4) Ten hours additional flight training when making a transition from single to twin engine aircraft;
- (5) Five hours additional flight training when making a transition from one model aircraft to another;
- (6) Ten hours flight time orientation for new pilots if unfamiliar with the program service area including night flights; and
- (7) Five hours flight time orientation for new pilots if familiar with the program service area including night flights.

(b) All flight crew members and medical crew members, including specialty teams must meet, at a minimum, the following criteria:

- (1) Fly an average of at least five missions per month per six month period or complete refresher training in aircraft safety every six months; and
- (2) Complete refresher training in aircraft safety on an annual basis.

Statutory Authority G.S. 131E-159(b).

.1405 AMBULANCE ATTENDANT PERFORMANCE

Ambulance attendants trained in approved training programs and certified by the Office of Emergency Medical Services may assist the emergency medical technician in performing any of the following procedures if allowed by the County Emergency Medical Services System in which they function:

- (1) Patient assessment;
- (2) Basic life support techniques in accordance with the American Heart Association or American Red Cross including airway management and cardiopulmonary resuscitation;
- (3) Hemorrhage control;
- (4) Oxygen administration;
- (5) Treatment for shock;
- (6) Bandaging and dressing soft tissue injuries;
- (7) Splinting fractures and dislocations;
- (8) Treatment of injuries to the skull, spine, and chest;
- (9) Assisting in normal and abnormal child-birth;
- (10) Lifting and moving patients for transfer to a medical facility;
- (11) Treatment of injuries as a result of exposure to heat and cold;
- (12) Treatment of burns; and
- (13) Providing of basic life support for medical emergencies.

Statutory Authority G.S. 131E-159(b).

.1406 EMERGENCY MEDICAL TECHNICIAN PERFORMANCE

Emergency Medical Technicians trained in approved training programs and certified by the Office of Emergency Medical Services may perform any of the following procedures if allowed by the County Emergency Medical Services System in which they function:

- (1) Patient assessment;
- (2) Basic life support techniques in accordance with the American Heart Association or American Red Cross including airway management and cardiopulmonary resuscitation;

- (3) Oxygen administration;
- (4) Hemorrhage control;
- (5) Treatment for shock;
- (6) Bandaging and dressing soft tissue injuries;
- (7) Application of military anti-shock trousers;
- (8) Splinting fractures and dislocations;
- (9) Treatment of injuries to the head, face, eye, neck, and spine;
- (10) Treatment of injuries to the chest, abdomen and genitalia;
- (11) Provision of basic life support for medical injuries;
- (12) Assisting in normal and abnormal child-births;
- (13) Treatment of injuries as a result of exposure to heat and cold;
- (14) Treatment of burns;
- (15) Lifting and moving patients for transfer to a medical facility; and
- (16) Extrication of patients from confined areas.

Statutory Authority G.S. 131E-159(b).

SECTION .1500 - CERTIFICATION REQUIREMENTS FOR BASIC SUPPORT PERSONNEL

.1501 CERTIFICATION REQUIREMENTS: AMBULANCE ATTENDANT

(a) To become certified as an Ambulance Attendant, a person must successfully complete either of the following options:

OPTION I

- (1) Be at least 18 years of age;
- (2) Pass a physical examination performed by a physician documenting the ability to function as an Ambulance Attendant;
- (3) Successfully complete, within one year prior to application, an Ambulance Attendant training course approved by the Office of Emergency Medical Services, following guidelines established by the Commission. When training was completed over one year prior to application, a person must submit evidence of completion of pertinent refresher training in emergency medicine taken in the past year for approval by the Office of Emergency Medical Services;
- (4) Pass a basic life support practical examination administered by the Office of Emergency Medical Services; and
- (5) Pass either an Ambulance Attendant written examination, or an oral examination at the option of the applicant, administered by the Office of Emergency Medical Services; or

OPTION II

- (1) Be at least 18 years of age;
- (2) Pass a physical examination performed by a physician documenting the ability to function as an Ambulance Attendant;
- (3) Successfully complete, within one year prior to application, an Emergency Medical Technician training course approved by the Office of Emergency Medical Services, following guidelines established by the Commission. When training was completed over one year prior to application, a person must submit evidence of completion of pertinent refresher training in emergency medicine taken in the past year for approval by the Office of Emergency Medical Services;
- (4) Pass a basic life support practical examination administered by the Office of Emergency Medical Services; and
- (5) Complete an Emergency Medical Technician written examination administered by the Office of Emergency Medical Services and achieve a minimum score of 55 percent.

(b) Persons holding current certification equivalent to an Ambulance Attendant with another state where the training and certification requirements have been approved for reciprocity by the Office of Emergency Medical Services may become certified by:

- (1) Presenting evidence of such certification for verification by the Office of Emergency Medical Services; and
- (2) Meeting the criteria specified in Paragraphs (a)(1) and (a)(2), of this Rule.

(c) Certification obtained through reciprocity shall be valid for a period not to exceed the length of the current certification or a period not to exceed two years whichever is shorter. No certification shall be valid for a period exceeding two years. Persons who live in a state that borders North Carolina and are currently affiliated with an ambulance provider in North Carolina may continue to obtain a North Carolina certification through reciprocity if they continue to meet the recertification requirements in the state in which they reside. Persons who live in North Carolina and are currently certified in another state that borders North Carolina may continue to obtain a North Carolina certification through reciprocity if they continue to meet the recertification requirements in the state in which they are certified. Persons who were previously certified in North Carolina and are currently certified in another state or with the National Registry of Emergency Medical Technicians, must present

evidence of pertinent refresher training and skill evaluation prior to becoming certified through reciprocity.

(d) To become recertified as an Ambulance Attendant a person must successfully complete either of the following options:

OPTION I

- (1) A physical examination performed by a physician documenting the ability to function as an Ambulance Attendant;
- (2) An Ambulance Attendant refresher training program, approved by the Office of Emergency Medical Services, following guidelines established by the Commission;
- (3) A basic life support practical examination administered by the Office of Emergency Medical Services; or

OPTION II

- (1) A physical examination performed by a physician documenting the ability to function as an Ambulance Attendant;
- (2) A continuing education program taught or coordinated by an approved EMT Instructor, following guidelines established by the Commission; and
- (3) A basic life support skill evaluation(s) conducted under the direction of the approved EMT Instructor assessing the ability to perform the skills of an Ambulance Attendant, approved by the Office of Emergency Medical Services, following guidelines established by the Commission.

Statutory Authority G.S. 131E-159(b).

**.1502 CERTIFICATION REQUIREMENTS:
EMERGENCY MEDICAL TECHNICIAN**

(a) To become certified as an Emergency Medical Technician, a person shall meet the following criteria:

- (1) Be at least 18 years of age;
- (2) Pass a physical examination performed by a physician documenting the ability to function as an Emergency Medical Technician;
- (3) Successfully complete, within one year prior to application, an Emergency Medical Technician training course approved by the Office of Emergency Medical Services, following guidelines established by the Commission. When training was completed over one year prior to application, a person must submit evidence of completion of pertinent refresher training in emergency medicine taken in the past year for approval by the Office of Emergency Medical Services;

(4) Pass a basic life support practical examination administered by the Office of Emergency Medical Services; and

(5) Pass an Emergency Medical Technician written examination administered by the Office of Emergency Medical Services.

(b) Persons holding current certification equivalent to an Emergency Medical Technician with the National Registry of Emergency Medical Technicians or in another state where the training and certification requirements have been approved for reciprocity by the Office of Emergency Medical Services may become certified by:

(1) Presenting evidence of such certification for verification by the Office of Emergency Medical Services; and

(2) Meeting the criteria specified in Paragraphs (a)(1) and (a)(2), of this Rule.

(c) Certification obtained through reciprocity shall be valid for a period not to exceed the length of the current certification or a period not to exceed two years whichever is shorter. No certification shall be valid for a period exceeding two years. Persons who live in a state that borders North Carolina and are currently affiliated with an ambulance provider in North Carolina may continue to obtain a North Carolina certification through reciprocity if they continue to meet the recertification requirements in the state in which they reside. Persons who live in North Carolina and are currently certified in another state that borders North Carolina may continue to obtain a North Carolina certification through reciprocity if they continue to meet the recertification requirements in the state in which they are certified. Persons who were previously certified in North Carolina and are currently certified in another state or with the National Registry of Emergency Medical Technicians, must present evidence of pertinent refresher training and skill evaluation prior to becoming certified through reciprocity.

(d) To become recertified as an Emergency Medical Technician a person must successfully complete either of the following options:

OPTION I

(1) A physical examination performed by a physician documenting the ability to function as an Emergency Medical Technician;

(2) An Emergency Medical Technician refresher training program approved by the Office of Emergency Medical Services, following guidelines established by the Commission;

(3) A basic life support practical examination administered by the Office of Emergency Medical Services; or

OPTION II

(1) A physical examination performed by a physician documenting the ability to function as an Emergency Medical Technician;

(2) A continuing education program taught or coordinated by an approved EMT Instructor, following guidelines established by the Commission; and

(3) A basic life support skill evaluation(s) conducted under the direction of the approved EMT Instructor assessing the ability to perform the skills of an Emergency Medical Technician, approved by the Office of Emergency Medical Services, following guidelines established by the Commission.

Statutory Authority G.S. 131E-159(b).

SECTION .1600 - ADMINISTRATION

**.1601 PERMIT/CERTIFICATION DENIAL:
SUSPENSION; OR REVOCATION**

(a) The Office of Emergency Medical Services may deny, suspend, or revoke the permit of an ambulance service or of a specific vehicle for any of the following reasons:

(1) Failure to comply with the requirements of Section .0900 of this Subchapter;

(2) Obtaining a permit through fraud or misrepresentation; and

(3) Failure to provide emergency medical care to the defined ambulance service area in a timely and professional manner.

(b) The Office of Emergency Medical Services may deny, suspend, or revoke the certification of a field technician for any of the following reasons:

(1) Failure to comply with the applicable performance and certification requirements as found in Section .0800 of this Subchapter;

(2) Obtaining or attempting to obtain certification or recertification through fraud or misrepresentation;

(3) Aiding a person in obtaining or attempting to obtain certification or recertification through fraud or misrepresentation;

(4) Failure to competently perform the skills or procedures enumerated in Section .1400 of this Subchapter;

(5) Performance of a skill or procedure which is not within the scope and responsibility of the certificate holder;

(6) Performance of a skill or procedure that is detrimental to the health and safety of a patient;

(7) Any felony conviction;

- (8) A misdemeanor conviction of the use, possession, or distribution of illegal drugs within the past five years; and
- (9) Conviction of driving while impaired within the past five years.

Statutory Authority G.S. 131E-159(a).

.1602 PROCEDURES FOR DENIAL: SUSPENSION; REVOCATION

Denial, suspension, or revocation of a permit or certification shall follow the rules regarding contested cases found in G.S. 150B.

Statutory Authority G.S. 131E-159(a).

.1603 APPLICATION PROCEDURES: REQUIRED FORMS

(a) All applications for permits, certification, or recertification must be filed with the Office of Emergency Medical Services on the appropriate forms.

(b) At a minimum, the following forms are required for application:

- (1) Certification Application Form;
- (2) Medical Certification Form;
- (3) EMT Recertification Continuing Education Verification Form; and
- (4) Air Ambulance Report Form.

(c) EMS providers shall complete all forms, surveys, and requests for data, as required by the Office of Emergency Medical Services.

Statutory Authority G.S. 131E-159(a).

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Facility Services intends to amend rule(s) cited as 10 NCAC 3S .0108 - .0109, .0207 - .0211, .0213 - .0214, .0307 - .0308, .0407 - .0408, .0506 - .0509, .0614 - .0619, .0706 - .0707, .0806 - .0808, .0901 - .0902, .1001 - .1004, .1006; adopt rule(s) cited as 10 NCAC 3S .0903 - .0904; and repeal rule(s) cited as 10 NCAC 3S .0212.

The proposed effective date of this action is December 1, 1989.

The public hearing will be conducted at 9:30 a.m. on September 15, 1989 at Hearing Room, Division of Facility Services, 701 Barbour Drive, Raleigh, N.C. 27603.

Comment Procedures: Any interested person may present comments in writing at least three

days prior to or at the hearing or orally at the hearing for a maximum of ten minutes. Any person may request information by writing or calling Lynda McDaniel, Division of Facility Services, 701 Barbour Drive, Raleigh, N.C. 27603, (919) 733-2342.

SUBCHAPTER 3S - CERTIFICATION OF CARDIAC REHABILITATION PROGRAMS

SECTION .0100 - GENERAL INFORMATION: ADMINISTRATION

.0108 DEFINITIONS

The following definitions will apply throughout this Subchapter:

- (1) "Cardiac Rehabilitation Program" means a program certified under Article 8 of Chapter 131E of the North Carolina General Statutes for the delivery of cardiac rehabilitation services to clients, in environments other than hospitals and includes, but shall not be limited to: coordinated, physician-directed, individualized programs of therapeutic activity and adaptation lifestyle modifications which are designed to assist the cardiac patient in attaining the highest rehabilitative potential;
- (2) "Certification" means the issuance of a certificate by the Department upon determination that cardiac rehabilitation services offered at a given program site meet are in substantial compliance with all cardiac rehabilitation program rules contained in this Subchapter and the provisions of G.S. Chapter 131E, Article 8;
- (3) "Department" means the Department of Human Resources;
- (4) "Program Director" means the person who supervises the staff of a certified cardiac rehabilitation program and directs all facets of the program;
- (5) "Site" means the facility in which the cardiac rehabilitation program is held;
- (6) "Cardiac therapy session" means that period of time that is staff directed and consists of specific warm-up, stimulus phase, and cool-down activities;
- (7) Regular follow-up intervals - three, six, 12 months;
- (8) "Division" means the Division of Facility Services.

Statutory Authority G.S. 131E-169.

.0109 POLICIES AND PROCEDURES

The program director of each cardiac rehabilitation program shall assure written policies and procedures which are available and implemented

by the staff. These policies and procedures shall cover at least the following areas:

- (1) admission of patients;
- (2) patient assessment; prescription and therapy;
- (3) discharge of patient; patient follow-up;
- (4) post-discharge, follow-up and evaluation; patient discharge;
- (5) maintenance and retention of medical records; and individual cardiac patient rehabilitation plans;
- (6) orientation of all program personnel;
- (7) physician services and utilization of patient's private physician; personnel records which include verification of credentials;
- (8) procurement of supplies and equipment; communication with patient(s) referral/personal physician(s);
- (9) procedures for recording and reviewing of all incidents and accidents;
- (10) scope of services provided;
- (10)(11) confidentiality of medical record information;
- (11)(12) emergency procedures.
- (12) participation in uniform data tabulation and collection systems; and
- (14) staff development, including, but not limited to, a requirement that all staff members attend at least one exercise session weekly.

Statutory Authority G.S. 131E-169.

SECTION .0200 - CERTIFICATION

.0207 CERTIFICATION REQUIRED

(a) For a cardiac rehabilitation program to be certified under G.S. Chapter 131E, Article 8, a cardiac rehabilitation program must be issued a certificate by the Department when the department Division determines that the program complies with the provisions of G.S. Chapter 131E, Article 8, and is in substantial compliance with the rules contained in this Subchapter.

(b) A certificate issued to a specific cardiac rehabilitation program by the department is not transferable or assignable, except with prior written approval of the department. A currently valid certificate must also be posted in a conspicuous place on the certified premises.

(c) A new certification shall be required when there is a change of either the program director or medical director. The necessity and type of review shall be at the discretion of the Division.

Statutory Authority G.S. 131E-169.

.0208 TYPES OF CERTIFICATION

Two types of certification are issued to cardiac rehabilitation programs. They are as follows:

(1) Provisional Certification.

- (d) A provisional certification may be extended for up to three months when a new program begins and when extreme circumstances occur to restrict the development of the program. The program must apply in writing to the Division for an extension.

Statutory Authority G.S. 131E-169.

.0209 APPLICATION

(a) An application for certification shall be submitted to the Department prior to a certificate being issued.

(b) An application shall be submitted prior to the occurrence of any of the following circumstances:

- (1) Initial certification (new program); Provisional certification of a new program;
- (2) Change of premises (initial certification of new premises or addition of new site);
- (3) Change of ownership (initial certification of new owner), program director or medical director; and
- (4) Recertification.

(c) Contents of the application shall include the following:

- (1) name and address of applicant (owner);
- (2) name of the program to which certificate is to be issued;
- (3) address of the site at which the program is to be conducted;
- (4) name of program director;
- (5) name of medical director;
- (6) the name and principal business address of each and all officers and directors as well as the name and principal business address of each partner or stockholder owning directly or indirectly 10 percent or more of the stock, if appropriate; and
- (7) such other documents or information as may be required by the department in determining whether to grant a certificate.

Statutory Authority G.S. 131E-169.

.0210 INSPECTION

(a) Any cardiac rehabilitation program applying for certification shall be inspected by representatives of the department Division prior to the issuance of a certificate.

(b) Any cardiac rehabilitation program certified by the Department may be inspected by authorized representatives of the department Division at any time during the program's business hours.

On-site inspections shall be conducted as necessary to certify compliance or continued compliance with certification requirements. Inspections must be unannounced. The purpose of any inspection will be explained or summarized with the program director.

(c) The program director shall provide and make available to representatives of the ~~department~~ such financial, statistical and other records as Division records deemed necessary to demonstrate compliance with this Subchapter.

(d) Routine inspections shall be conducted by one or more review team consultants with specialties in areas to be evaluated.

(e) Following completion of an inspection, an exit-conference shall be conducted with one or more representatives of the program's management. An oral summary of the findings shall be presented at the exit-conference. The ~~department~~ Division shall provide the program director with a written report of the findings within 20 working days following the inspection. The program director shall have ten working days from the receipt of the report to respond with a plan or report which describes the steps taken to remedy any observed deviations from certification rules contained in this Subchapter.

Statutory Authority G.S. 131E-169.

.0211 REVIEW TEAM: REVIEW PROCESS

(a) The review team ~~must~~ should include persons from existing certified programs with specialties in program areas to be inspected, (e.g., physician, program director, vocational rehabilitation counselor, exercise specialist or coordinator, dietitian nutritionist, registered nurse, psychologist, business manager and any other appropriate consultants). Persons subject to occupational licensing (physician, psychiatrist, etc.) must have a current, valid North Carolina license or registration.

(b) The team of consultants will include staff from existing certified cardiac rehabilitation programs. The vocational rehabilitation counselor will be reviewed by a vocational rehabilitation counselor serving in a certified cardiac rehabilitation program or another person from the North Carolina Division of Vocational Rehabilitation. All persons assigned to review teams are authorized representatives of the Department when engaged in an inspection of a cardiac rehabilitation program scheduled in accordance with Rule .0210 of this Subchapter.

(c) If the service of a physician reviewer cannot be obtained to participate in a program review, the Division review coordinator will make ap-

propriate adjustments in review team composition.

(d) The review team will observe the program in operation and interview staff members to assess the operation of the program.

(e) Each review consultant will submit their working copy of the review form to the review coordinator at the completion of the review. The review coordinator will summarize the findings and report in writing to the program within 20 working days.

Statutory Authority G.S. 131E-169.

.0212 TEAM PROCESS (REPEALED)

Statutory Authority G.S. 131E-169.

.0213 ADVERSE ACTION

If a program is found in significant noncompliance with the rules contained in this Subchapter and G.S. Chapter 131E, Article 8, the ~~department~~ Division shall either issue a provisional certification, deny a request for full certification, suspend a program's certification, or revoke the program's certification. Compliance failure ~~in two or more of the following shall be which jeopardizes the health, safety and welfare of the patient(s), and remains uncorrected as specified by the Division, may be sufficient cause for the~~ denial or revocation of certification.

- (1) ~~three or more disciplines do not have requisite credentials as staff members;~~
- (2) ~~major violations of safety consideration including lack of oxygen and unavailability of an adequately stocked crash cart;~~
- (3) ~~two or more interventions missing;~~
- (4) ~~inadequate numbers of staff personnel to ensure the safe delivery of services;~~
- (5) ~~inadequate team process;~~
- (6) ~~inadequate assessment procedures;~~
- (7) ~~inadequate equipment or facilities; or~~
- (8) ~~non-participation in the administrative data tabulation system.~~

Statutory Authority G.S. 131E-169.

.0214 PROCEDURE FOR APPEAL

A cardiac rehabilitation program may appeal any decision of the ~~department~~ Division to deny, revoke, suspend, or amend a certificate by making such an appeal in accordance with ~~G.S. Chapter 150A~~ G.S. 150B and 10 NCAC 1B .0200.

Statutory Authority G.S. 131E-169.

SECTION .0300 - PERSONNEL

.0307 COMPOSITION OF STAFF

The following personnel must be on the staff of a certified cardiac rehabilitation program: The program staff must include a program director, medical director, dietitian/nutritionist, psychologist/psychiatrist, vocational rehabilitation counselor, exercise specialist/coordinator and patient educator. One staff member shall not have primary responsibility for more than two staff positions.

(1) Staff Positions:

- (a) ~~(1)~~ Program director serves as the administrator of the certified program, supervises the staff and directs all facets of the total program.
- (b) ~~(2)~~ Medical director is the consultant on all medical aspects of the program and is responsible for the medical supervision of all testing, treatments and therapy programs of patients in addition to developing emergency procedures and attending to the equipment, medication, and adequacy of personnel, including the physicians. This person is also the liaison with the medical community.
- (c) ~~(3)~~ Exercise specialist/coordinator is responsible for designing and supervising the exercise programs in consultation with the medical director. Duties also include implementation of the exercise prescription. Daily heart rate, attendance records and other information are collected and maintained on a regular basis by this staff member.
- (d) ~~(4)~~ Exercise technologist works under the direction of the medical director and is responsible for the administration of the graded exercise test, including the operation of the treadmill, electrocardiograph (EKG) and other laboratory tests. Psychologist or psychiatrist analyzes the psychological needs of the patients and counsels and/or refers patients for treatment. The relaxation program is either led by the psychologist or psychiatrist, or the psychologist or psychiatrist has provided in-service training for other staff to carry it out. The psychologist or psychiatrist also provides consultation to the staff members about suggested ways of dealing with emotional and psychological adjustments of the patients.
- (e) ~~(5)~~ Dietitian or nutritionist obtains diet histories, analyzes patient diets, and counsels patients and other person(s) designated by the patient on diet modification.

(6) Psychologist or psychiatrist analyzes the psychological needs of the patients and counsels and/or refers patients for treatment. The relaxation program is either led by the psychologist or psychiatrist or the psychologist or psychiatrist has provided in-service training for other staff to carry it out. The psychologist or psychiatrist also provides consultation to the staff members about suggested ways of dealing with emotional and psychological adjustments of the patients.

- (f) ~~(7)~~ Vocational rehabilitation counselor screens the program patients through a personal interview or vocation questionnaire to determine those who have vocational potential or plan to return to work. In addition, the counselor develops the vocational assessment, prescription, and intervention strategies, and provides counseling and other services as appropriate, required to achieve the vocational objective for patients who become clients of the North Carolina Division of Vocational Rehabilitation. The counselor also attends staff meetings in which VR clients are to be discussed, counsels and provides follow-up to clients at the program, and participates in other program activities.
- (g) Patient educator organizes the educational aspects of the program, including educational materials such as handouts, brochures, and newsletters. The patient educator is also responsible for the coordination of the education lectures, mini-sessions, patient counseling, and feedback sessions.

(2) Additional Roles:

- (a) Exercise technologist works under the direction of the medical director and is responsible for the administration of the graded exercise tests, including the operation of the treadmill, electrocardiograph (EKG), oscilloscope, and other laboratory tests.
- (b) Attending physician shall be on-site and available throughout the therapy including the specific warm-up, stimulus and cool-down phases.
- (c) Registered nurse serves as teacher, acts as liaison person to other disciplines, assists with medical emergencies, maintains emergency equipment, helps to assess, plan and evaluate interdisciplinary base plan of care, and maintains vital sign records and symptomatology.

Statutory Authority G.S. 131E-169.

.0308 MINIMAL EDUCATIONAL STANDARDS OF STAFF POSITIONS AND ADDITIONAL ROLES

(a) Staff Positions:

- (1) ~~(a)~~ The program director of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (A) or (B) of this Paragraph:

(A) Be an ACSM (American College of Sports Medicine) certified program director or an ACSM certified exercise specialist, and be certified in basic cardiac life support; or

(B) Have a bachelor's, master's or doctorate degree in nursing, exercise physiology, or another health profession, 800 hours of cardiac rehabilitation experience, and be certified in basic cardiac life support. Program directors not meeting these requirements who were employed by the program prior to the September 1, 1989, effective date of these rules may continue in their present position, and are encouraged to seek continuing education in appropriate subject matter.

- (1) ~~Have a master's degree or doctorate degree in nursing, exercise physiology or another health profession, and has been certified as a program director or exercise specialist by the American College of Sports Medicine; and be certified in basic cardiac life support; or~~

- (2) ~~have a bachelor's degree in a health field (e.g., physical education, nursing, exercise physiology, health education) or nursing degree and cardiac rehabilitation experience; previous experience in the organization and administration and supervision of personnel; and certified in basic cardiac life support.~~

(b) The medical director of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (1) or (2) of this Paragraph:

- (1) Have a medical degree, be licensed to practice medicine in North Carolina, be a board certified internist or cardiologist, ~~and~~ have experience in the medical supervision of cardiac rehabilitation programs, ~~and be certified in basic cardiac life support; or have recent experience in emergency patient care; or~~

- (2) Have a medical degree, be licensed to practice medicine in North Carolina, have experience in electrocardiographic interpretation and in graded exercise testing,

~~and be certified in basic cardiac life support.~~

(c) The exercise specialist or coordinator of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (1) or (2) of this Paragraph:

- (1) Be certified as an exercise specialist or program director by the American College of Sports Medicine; and be certified in basic cardiac life support; or

- (2) Have a bachelor's degree ~~or certification~~ in a health field, have at least one year's previous experience in working with adult fitness and/or cardiac rehabilitation programs, ~~be certified in senior life saving (if a swimming program is offered); and be certified in basic cardiac life support, and supervised by the program director who has ACSM certification as an exercise specialist or program director. If the program does not have an ACSM certified exercise specialist or program director on staff, and significant weaknesses are identified in this program component, the program may be required by the Division to seek qualified consultation on an annual or semi-annual basis.~~

(d) ~~The exercise technologist of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (1), (2), or (3) of this Paragraph:~~

- (1) ~~be certified as an exercise technologist by the American College of Sports Medicine, and with the ability to perform graded exercise electrocardiography; and be certified in basic life support; or~~

- (2) ~~be a registered nurse or have a bachelor's degree in a health field; have basic knowledge and experience in graded exercise testing and exercise electrocardiography; and be certified in basic life support; or~~

- (3) ~~if not certified as stated in (1) of this Paragraph or possessing a degree as stated in (2) of this Paragraph, the medical director must assure that the person has competency of training and/or experience, have basic knowledge and experience in graded exercise testing and exercise electrocardiography; and be certified in basic cardiac life support.~~

(d) ~~(e)~~ The dietitian or nutritionist of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (1) or (2) of this Paragraph:

- (1) be a dietitian registered by the American Dietetic Association, ~~have a master's degree in foods, nutrition, or other health~~

~~profession~~, and be certified in basic cardiac life support; or

- (2) have a bachelor's or advanced degree in ~~dietetics~~, foods, nutrition, or foods and nutrition, ~~or~~ and a one year internship in a hospital practicing therapeutic dietary counseling, and be certified in basic cardiac life support.

(e) ~~(f)~~ The psychologist or psychiatrist of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (1) or (2) of this Paragraph:

- (1) be a licensed practicing psychologist in North Carolina (doctoral level) or a licensed psychological associate monitored and supervised by a licensed practicing psychologist, have a minimum of two years of acceptable and appropriate ~~professional~~ experience, and be certified in basic cardiac life support; or
- (2) be a board certified psychiatrist licensed to practice medicine in North Carolina, have a minimum of two years of acceptable and appropriate professional experience, and be certified in basic cardiac life support.

(f) ~~(g)~~ The vocational rehabilitation counselor of a certified cardiac rehabilitation program must be a rehabilitation counselor with a master's degree in rehabilitation counseling or a related field, or have a bachelor's degree and be appropriately qualified to provide vocational rehabilitation services. The vocational rehabilitation counselor must be certified in basic cardiac life support.

(g) The patient educator of a certified cardiac rehabilitation program must either have an R.N. degree or a bachelor's degree in a health field (nursing, health and sport science, physical therapy), have had basic coursework, training, and experience in patient education with an adult population, and be certified in basic cardiac life support.

(h) Additional Roles:

- (1) The exercise test technologist of a certified cardiac rehabilitation program must meet the requirements of either Subparagraph (A), (B), or (C) of this Paragraph:
 - (A) Be certified as an exercise test technologist by the American College of Sports Medicine, and be certified in basic cardiac life support; or
 - (B) Be a registered nurse or have a bachelor's degree in a health field, have a basic knowledge and experience in graded exercise testing and exercise electrocardiography, and be certified in basic cardiac life support; or
 - (C) If not certified as stated in Subparagraph (A) of this Paragraph or possessing

a degree as stated in Subparagraph (B) of this Paragraph, the medical director must assure that the person has competency of training and/or experience, have basic knowledge and experience in graded exercise testing and exercise electrocardiography, and be certified in basic cardiac life support.

- (2) The attending physician of a certified cardiac rehabilitation program must have a medical degree, be licensed to practice in North Carolina, have competency to direct other staff in a medical emergency, and must be approved, in writing, by the medical director.
- (3) The registered nurse of a certified cardiac rehabilitation program must be licensed to practice professional nursing in North Carolina, have competency to assist other staff in a medical emergency, be competent in basic EKG interpretations, have at least one year experience in cardiac rehabilitation or equivalent (i.e., coronary/critical care nurse), and be certified in basic cardiac life support.

Statutory Authority G.S. 131E-169.

SECTION .0400 - PROGRAM ADMISSION CRITERIA: PATIENT ASSESSMENT

.0407 ADMISSION CRITERIA

Patients entering a certified cardiac rehabilitation program must have one or a combination of the following:

- (1) Myocardial infarction:
 - (a) ~~Any~~ A post-myocardial infarction patient may enter a program any time at the discretion of the medical director and referral from a personal physician.
 - (b) There must be adequate control of complications, i.e., angina, congestive heart failure, arrhythmias, etc., according to the medical director and the referring physician.
- (2) Angina pectoris: recent changes in medication for angina control are permissible at the discretion of the patient's personal physician.
- (3) Post-operative cardiovascular surgery or interventional procedures, i.e., CABG, PTCA, valvular, congenital or peripheral surgery:
 - (a) A minimum of three weeks following aorto-coronary bypass surgery is required before admission to the program or A post-operative cardiovascular surgery patient may enter a program or at any time

- at the discretion of the medical director and referral from a personal physician.
- (b) A post-operative valvular, congenital or peripheral obstructive surgery patient ~~can~~ may be admitted with the admission date being at the discretion of the referring physician and medical director.
 - (4) Hypertension: patients with low functional capacity or a specified need to maintain therapy may be admitted to the program.
 - (5) Arrhythmias:
 - (a) Patients with serious arrhythmias and/or conduction defects may ~~also~~ be admitted to the program.
 - (b) Pacemaker patients with any of the diagnoses contained in this Rule and/or decreasing functional capacity ~~can~~ may be admitted to the program.
 - (6) Other conditions which ~~are~~ may be considered grounds for admission include, but are not limited to: cardiomyopathies, valvular heart disease, ~~etc.~~ cardiac transplant, COPD, diabetes, and disabling renal disease. Appropriate assessment, prescriptive and therapeutic modifications must be documented.

Statutory Authority G.S. 131E-169.

.0408 PATIENT ASSESSMENT

Upon admission to the cardiac rehabilitation program each patient must have a medical record developed which includes written documentation of the disabling condition and an assessment. This assessment must include:

- (1) Medical Assessment:
 - (a) Cardiovascular evaluation as to present diagnosis, therapy and condition and a discharge summary of the patient's last hospitalization; or
 - (b) Statement by referring physicians as to present diagnosis, therapy and condition.
- (2) Laboratory Assessment:
 - (a) Resting 12-lead electrocardiogram;
 - (b) Graded exercise test with 12-lead electrocardiogram;
 - (c) Blood chemistry and complete blood count (CBC), to include total cholesterol, high density lipid lipoprotein (HDL), and triglycerides, and glucose;
 - (d) Functional work capacity as determined by measured or predicted equivalents (METS);
 - (e) Pulmonary function studies, if available; indicated; and
 - (f) Height, weight, percent body fat, and ideal weight.
- (3) Dietary Assessment:

- (a) Nutrition history containing socio-economic, medical, anthropometric, dietary and attitudinal information;
- (b) Written three-to- seven day diet record;
- (c) Review of medical history and assessment, recent serum lipid analysis, and anthropometric analysis;
- (d) Nutrition interview with patient and ~~appropriate family member~~; other person(s) designated by the patient; and
- (e) Behavior survey considering frequency, motivation, location and impediments to eating.
- (4) Psychological Assessment:
 - (a) Psychological interview and questionnaire; and
 - (b) Screening for psychopathology and behavioral dimensions such as a state-trait anxiety, depression, and Type A behavioral pattern.
- (5) Vocational Assessment:
 - (a) Vocational questionnaire to determine current vocational status, description of physical requirements of job, working conditions and psychological demands as perceived by the patient; and
 - (b) Vocational questionnaire and/or interview to determine demographic and financial data, establish proper counselor/client relationship, complete agency documentation to assess eligibility for agency services, and to assess need for further diagnostic procedures for those individuals who apply for vocational rehabilitation services.

Statutory Authority G.S. 131E-169.

SECTION .0500 - INDIVIDUAL CARDIAC PATIENT REHABILITATION PLAN

.0506 TEAM COORDINATION AND STAFFINGS

- (a) A multi-disciplinary team approach is used to implement each patient's cardiac rehabilitation program. This team brings together all of the disciplines involved to remediate cardiac risk factors and carry out therapy.
- (b) On the basis of their assessments, the cardiac rehabilitation staff shall decide upon the most appropriate means of intervention for each patient. Within four weeks of entry into the program, a prescription shall be developed by each staff member.
- (c) The team staffing report, at a minimum, shall include a coordinated therapeutic plan of exercise therapy, diet therapy, psychological services, and vocational rehabilitation counseling

and services. This report ~~shall must then~~ be sent to the patient's personal and/or referring physician, with a copy maintained in the medical record.

(d) All multi-disciplinary staff (exercise coordinator, psychologist, and nutritionist), will attend a minimum of one cardiac therapy session per week and one patient staffing per month. The vocational rehabilitation counselor assigned to the program shall attend at least those staffings at which VR clients are discussed.

Statutory Authority G.S. 131E-169.

.0507 CARDIAC THERAPY

(a) Unless medically contraindicated, each individual's rehabilitation plan shall include:

- (1) Type of cardiac therapy: gymnasium (walk/jog) program, swimming (walk/swim), bicycle ergometry, arm ergometry, circuit training, or treadmill walking program; ~~stationary bicycle;~~
 - (2) Intensity: 60 to 85 percent of safe functional capacity; symptom-limited heart rate reserve;
 - (3) Duration: at least 45 minutes duration with a minimum of 30 minutes at the stimulus phase and remaining time in warm-up/cool-down; and
 - (4) Frequency: minimum of three non-consecutive days per week.
- (b) At the discretion of the medical director, the patient may be monitored continuously or intermittently through the use of electrocardiography while performing the cardiac therapy described in Paragraph (a) of this Rule.
- (c) There shall be an attending physician on-site and available before a cardiac therapy session begins with the specific warm-up, stimulus and cool-down phases. In the event that a physician is not available, the session shall be suspended or an educational program may be substituted for cardiac therapy.
- (d) A staff to patient ratio in the cardiac therapy sessions should be at least 1:12 for all programs.

Statutory Authority G.S. 131E-169.

.0508 DIET THERAPY

Each individual's program shall include the following dietary services:

- (1) Interpretation and feedback of nutrition assessment to patient/spouse;
- (2) Patient/spouse counseling on nutrition for good health, food selection and preparation, with prescription of a therapeutic diet if necessary;

- (3) Eating behavior modification ~~where~~ when appropriate; and
- (4) Identification of a weight goal and weight reduction classes if necessary.

Statutory Authority G.S. 131E-169.

.0509 PSYCHOLOGICAL SERVICES

Each individual's program shall include the following psychological services:

- (1) Interpretation and feedback of psychological assessment to the patient.
- (2) Recommendations concerning ~~and an~~ appropriate plan of counseling/therapy (on-site or referral) which may include one or more of the following: ~~individual and group therapy, if needed; stress management, relaxation training, smoking cessation, and behavior modification.~~
 - (a) individual or group therapy;
 - (b) stress management;
 - (c) relaxation training;
 - (d) smoking cessation; and
 - (e) behavior modification.
- (3) The psychologist shall personally conduct sessions, or instruct other staff to conduct sessions, so that relaxation or stress management is offered at least once a week.

Statutory Authority G.S. 131E-169.

SECTION .0600 - PROGRESS EVALUATION AND FOLLOW-UP

.0614 PROGRESS EVALUATION AND FOLLOW-UP PROCEDURES

Patient follow-up shall include:

- (1) ~~(a)~~ Following the implementation of each cardiac patient's rehabilitation plan, routine monitoring of patient progress shall be accomplished. Changes to each patient's plan shall be made as appropriate, based upon evaluations. In some instances, post-discharge follow-up and evaluation may be desirable.
- (2) ~~(b)~~ Progress evaluation and other information pertaining to each patient's participation in the program shall be communicated with the staff. ~~through regular formal and informal verbal and written communication.~~
- (3) Reports of progress shall be sent to the referring/personal physician at regular follow-up intervals, defined as three, six, and 12 months after entry. If the patient continues in the program after 12 months, the results of annual re-evaluations should also be reported to the referring physician.

Statutory Authority G.S. 131E-169.

.0615 MEDICAL FOLLOW-UP

Medical follow-up procedures shall include:

- (1) evaluation of patient progress in functional capacity through examination of graded exercise testing (GXT) data at ~~retesting (3, 6 and 12 months);~~ regular follow-up intervals. If a GXT is not done, the record must contain documentation of the reason it was deferred;
- (2) consultation with professional staff regarding progress made by patients towards specified goals (e.g., functional capacity, smoking cessation, dietary modification, weight and lipid control, psychological status, vocational status);
- (3) consultation with staff regarding patient medications; and
- (4) consultation regarding alternate medical/surgical intervention (e.g., catheterization, surgery).

Statutory Authority G.S. 131E-169.

.0616 CARDIAC THERAPY FOLLOW-UP

Cardiac therapy follow-up procedures shall include:

- (1) monitoring of patient adherence to exercise prescription by systematic examination of patient records (intensity and frequency of cardiac therapy sessions) at monthly intervals, and documentation of feedback to the patient;
- (2) periodic review of the exercise prescription for appropriate intensity and duration; and
- (3) consultation with medical director on exercise prescription changes when needed (i.e., at follow-up GXT's and/or change in medication).

Statutory Authority G.S. 131E-169.

.0617 DIETARY FOLLOW-UP

Dietary follow-up procedures shall include:

- (1) Patient records of weight at least weekly and as a component of stress test protocol at ~~3, 6, and 12 months into the program;~~ regular follow-up intervals;
- (2) Review of medical status results, as well as lipid ~~and anthropometric results at 3, 6, and 12 months;~~ body composition and dietary status results at regular follow-up intervals;
- (3) ~~assessment of dietary status, using 24 hour recall, food record, or food frequency questionnaire;~~

(4) ~~new food records may be initiated when no progress is made toward anthropometric or lipid goals;~~

- (3) ~~(5)~~ Referral and follow-up to individual or group diet program to facilitate achievement of dietary goals, especially weight reduction;
- (4) ~~(6)~~ Periodic monitoring of the incorporation and maintenance of appropriate dietary modifications.

Statutory Authority G.S. 131E-169.

.0618 PSYCHOLOGICAL FOLLOW-UP

Psychological follow-up must include evaluations made ~~after 12 and 18 months of admission~~ at regular follow-up intervals to determine the extent to which the patient has been able to maintain needed changes in lifestyle and coping skills. This may be accomplished by interview or psychometric assessment.

Statutory Authority G.S. 131E-169.

.0619 VOCATIONAL REHABILITATION FOLLOW-UP

Vocational rehabilitation follow-up on sponsored clients shall include:

- (1) Counseling sessions to discuss progress made in the rehabilitation plan;
- (2) Contact with clients (and employer, if needed) after return to work or exit from the program; and
- (3) Other appropriate vocational rehabilitation services.

Statutory Authority G.S. 131E-169.

SECTION .0700 - PROGRAM DISCHARGE

.0706 CRITERIA FOR DISCHARGE

Six to twelve months is usually necessary for the significant rehabilitation of most cardiac patients. Upon deliberation and at the discretion of the rehabilitation program staff, a patient may be discharged after satisfactory improvement or a minimum of six months participation if appropriate levels are met for functional capacity, medical status, physical fitness and education. If the following criteria are met:

- (1) functional capacity: minimum of eight metabolic equivalents (METs) or ability to work at the upper prescribed limit without angina; significant arrhythmias or abnormal hemodynamic response;
- (2) medical status:
 - (a) electrocardiogram at maximum exercise:
 - (i) normal or unchanged conduction;
 - (ii) less than three mm ST depression at HRmax; and

- (iii) ~~arrhythmias stable or absent;~~
- (b) ~~angina, stable or absent;~~
- (c) ~~blood pressure at rest below 160/90 mmHg;~~
- (d) ~~resting heart rate below 90 beats/minute; and~~
- (e) ~~normal hemodynamic response to exercise;~~
- (3) ~~physical fitness: adequate physical fitness necessary for daily activities and occupation as evaluated by the staff; and~~
- (4) ~~education: patients should satisfactorily understand:~~
 - (a) ~~the basic pathophysiology of the cardiovascular disease process;~~
 - (b) ~~reasons for the intervention methods used in cardiac rehabilitation, i.e., physical activity and personal heart rate and system monitoring, diet, and psychological assessment and therapy; and~~
 - (c) ~~the reason for the cardiovascular drugs that have been prescribed for them.~~

Statutory Authority G.S. 131E-169.

.0707 DISCHARGE PLAN

A final decision is made by the cardiac rehabilitation staff to discharge the patient from the program into another appropriate program (home, YMCA, Cardiac Fitness/Graduate, or other). ~~or retain for an additional six months.~~ This discharge should be documented and communicated to the referring personal physician.

Statutory Authority G.S. 131E-169.

SECTION .0800 - MEDICAL RECORDS

.0806 POLICIES AND PROCEDURES

Each certified cardiac rehabilitation program shall have policies and procedures which shall be implemented to provide for at least the following:

- (1) maintenance of a complete, ~~and~~ accurate and organized medical record for each patient admitted to the program;
- (2) ~~filing of medical records to ensure accessibility for compiling and retrieving information;~~
- (3) ~~supervision of medical records;~~
- (2) (4) confidentiality of records;
- (3) (5) accessibility or non-accessibility of medical record information to the patient, program staff and non-employees;
- (6) ~~retention of records;~~
- (7) ~~disposition of records; and~~
- (8) ~~charting and indexing of records.~~
- (4) retention and disposition of records in accordance with the N.C. Statutes of Limitations, G.S. 1-15, 1-17.

Statutory Authority G.S. 131E-169.

.0807 RECORD REVIEW CONSENT

(a) Medical record work space shall be so located as to assure that medical records shall be protected from unauthorized disclosure. All medical records shall be stored in a safe and secure environment.

(b) The certified cardiac rehabilitation program must have policies to assure that medical records are retained in accordance with the North Carolina statutes of limitations, G.S. 1-15 and 1-17.

(c) Provisions shall be made for a patient or his legal representative to have access to the information contained in his medical record unless such access is medically contraindicated.

(d) The record of each patient must contain a statement signed by the patient which reads as follows: "I understand that in accordance with N.C. General Statute 131E-170, I have the right to object in writing to a review of my record or record information by the Department of Human Resources Division of Facility Services representatives during state certification inspections and by an objection in writing I may prohibit the inspection or release of my records."

Statutory Authority G.S. 131E-169.

.0808 CONTENT OF MEDICAL RECORD

(a) All entries in the record shall be legible and signed by the individual making the entry with a signature, title, and date.

(b) The patient's name must be recorded on each page of the record.

(c) The medical record shall contain at least the following:

- (1) patient identification data;
- (2) medical history and/or hospital discharge summary;
- (3) graded exercise data;
- (4) record of oxygen uptake where appropriate;
- (5) records of blood chemistry analysis including lipid profile;
- (6) informed consent to participate in the programs;
- (7) reports of physical examinations;
- (8) progress notes and response to the therapeutic plan;
- (9) vocational questionnaire;
- (10) all records of each discipline's participation in the program; patient's therapeutic plan;
- (11) discharge plans providing for post-discharge program continuity and follow-up as appropriate; and

- (12) miscellaneous records desirable for program continuity.

Statutory Authority G.S. 131E-169.

SECTION .0900 - EMERGENCIES

.0901 EMERGENCY PLAN

A written plan must be established which is sufficiently flexible to handle all possible emergencies. ~~must be established.~~ All areas of the premises [i.e., testing lab, pool, parking lot, locker ~~room, room(s), etc.~~ must be included. The plan shall address the assignment of personnel and availability of equipment which is subject to use in an emergency. ~~shall be addressed in the plan.~~ All patients shall be informed during orientation that staff supervision ceases when the patient exits the program "site".

Statutory Authority G.S. 131E-169.

.0902 EMERGENCY EQUIPMENT

~~A written record of weekly review of crash cart equipment and drug inventory is required. A written record of monthly emergency drills is required.~~ The following equipment and supplies must be available and operable in an emergency:

- (1) suction equipment (portable);
- (2) defibrillator (portable);
- (3) intubation equipment;
- (4) drug kit;
- (5) oxygen tank supply;
- (6) regulator and mask or nasal cannula.

Statutory Authority G.S. 131E-169.

.0903 PERSONNEL

For out-of-hospital cardiac rehabilitation programs:

- (1) Two medical personnel must be present during the warm-up, stimulus, and cool-down phases of the cardiac therapy session. The medical personnel must consist of the attending physician and at least one of the following qualified personnel: registered nurse, physician, physician's assistant. The options are:
 - (a) two M.D.'s, or
 - (b) one M.D. and one Physician's Assistant licensed to work under that doctor, or
 - (c) one M.D. and one registered nurse,
- (2) For in-hospital programs:
 - (a) The physician must be in-house but not involved in such activities as surgery, cardiac cath. etc. In other words, he/she must be immediately available by some

direct emergency contact system. This system must be tested at regular intervals.

- (b) Backup code-blue team response : be available.
- (c) One certified Advanced Cardiac Life Support (ACLS) staff member able to implement approved ACLS protocol should be present at the exercise site.

Statutory Authority G.S. 131E-169.

.0904 EMERGENCY DRILLS

A written record of monthly drills should be documented. In the record, a daily review of the crash cart equipment and a monthly drug inventory is required. The drills should be directed, and the effectiveness of the drill should be reviewed, documented, and signed by, the medical director or attending physician.

Statutory Authority G.S. 131E-169.

SECTION .1000 - FACILITIES AND EQUIPMENT

.1001 PROGRAM REQUIREMENTS

- (a) Facilities and equipment necessary for the delivery of each phase of the cardiac rehabilitation program must be readily available for use.
- (b) A written preventive maintenance program shall be established to ensure that all equipment is maintained in safe and proper working order.
- (c) A quality assurance program providing must be provided for periodic calibration of test equipment which is in accordance with manufacturers' recommendations or other generally accepted standards.

Statutory Authority G.S. 131E-169.

.1002 GRADED EXERCISE TESTING LABORATORY EVALUATION

The following facilities and equipment shall be available for ~~graded exercise testing~~ laboratory evaluation:

- (1) adequate space for physical examination and graded exercise testing;
- (2) 12-lead electrocardiographic equipment for exercise testing;
- (3) oscilloscope for electrocardiographic (ECG) monitoring or continuous recording;
- (4) treadmill, and/or bicycle ergometer and/or arm crank ergometer;
- (5) ~~defibrillator, oxygen tank, regulator and mask and emergency drugs, sphygmomanometer, blood pressure cuff, and stethoscope;~~
- (6) blood pressure cuff and stethoscope; emergency procedures, equipment, and supplies

PROPOSED RULES

as described in Section .0900 of this Subchapter on emergencies;

- (7) anthropometric equipment (skinfold calipers, stadiometer and ~~physician~~ physician's balance scale); and
- (8) spirometer for pulmonary function testing.

Statutory Authority G.S. 131E-169.

.1003 CARDIAC THERAPY

The following facilities and equipment shall be available and operable for the cardiac therapy program:

- (1) gymnasium, multipurpose room, or track;
- (2) ~~telemetry that allows for continuous electrocardiographic monitoring when determined necessary by the medical director;~~ portable ECG and oscilloscope;
- (3) ~~portable electrocardiograph;~~ sphygmomanometer, blood pressure cuff, and stethoscope;
- (4) ~~separate portable electrocardiographic monitor with defibrillator, blood pressure cuff, stethoscope;~~ emergency procedures, equipment, and supplies as described in Section .0900 of this Subchapter;
- (5) ~~oscilloscope;~~ large clock with a sweep second hand;
- (6) ~~recreational games equipment if deemed necessary and appropriate by the program direction or exercise specialist.~~
- (6) ~~emergency equipment:~~
 - (a) ~~suction equipment;~~
 - (b) ~~defibrillator;~~
 - (c) ~~intubation equipment;~~
 - (d) ~~drug kit;~~
 - (e) ~~oxygen tank;~~
 - (f) ~~regulator and mask;~~
 - (g) ~~stretcher; and~~
 - (h) ~~towels for pool program.~~
- (7) ~~recreational games equipment; and~~
- (8) ~~clock with a sweep second hand.~~

Statutory Authority G.S. 131E-169.

.1004 DIETARY PROGRAM

The following facilities and equipment shall be available for the dietary program:

- (1) Adequate space for interviewing and counseling;
- (2) Dietary tables and means of nutrient analysis;
- (3) Availability of equipment or service for blood serum lipid analysis; and
- (4) Appropriate educational materials for patient distribution and use during the dietary consultation.

Statutory Authority G.S. 131E-169.

.1006 VOCATIONAL REHABILITATION PROGRAM

Adequate space must be available for the vocational rehabilitation program to allow for confidential interviewing and counseling.

Statutory Authority G.S. 131E-169.

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Health Services intends to amend rule(s) cited as 10 NCAC 7A .0209; 7B .0337, .0347, .0349 - .0351; 8D .0204, .0701; 10D .1624, .1638, .1640, .2409; 10F .0032, .0034; 10H .0203; adopt rule(s) cited as 10 NCAC 10D .1642; repeal rule(s) cited as 10 NCAC 10D .1633.

The proposed effective date of this action is November 1, 1989.

The public hearing will be conducted at 1:30 p.m. on August 3, 1989 at Caswell Building, Board Room (First Floor/Room No. 179), 200 W. Jones Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Agency Legal Specialist, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3134. Written comments on these rule changes may be sent to Mr. Barkley at the above address. Written and oral comments (no more than ten minutes for oral comments) on these rule changes may be presented at the public hearing. Notice should be given to Mr. Barkley at least three days prior to the public hearing if you desire to speak.

CHAPTER 7 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 7A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

.0209 CONTROL MEASURES

(b) In interpreting and implementing the specific control measures adopted in Paragraph (a) of this Rule, and in devising control measures for outbreaks designated by the State Health Director and for communicable diseases and conditions for which a specific control measure is not

provided by this Rule, the following principles shall be used:

- (1) control measures shall be those which can reasonably be expected to decrease the risk of transmission and which are consistent with recent scientific and public health information;
- (d) The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:
 - (4) When health care workers or other persons have had a nonsexual blood or body fluid exposure that poses a significant risk of transmission, the following shall apply:
 - (A) When the source person is known:
 - (i) The attending physician or occupational health care provider responsible for the exposed person shall notify the attending physician of the person whose blood or body fluids is the source of the exposure that an exposure has occurred. If the attending physician of the source person knows the source's HIV infection status, the physician shall transmit this information to the attending physician of the exposed person. If the attending physician of the source person does not know the infection status of the source person, the physician shall discuss the exposure with the source and if the source person is at high risk for HIV infection, shall request permission for testing for HIV infection. If permission is granted, the source shall be tested. If permission is denied, the local or state health director may order testing of the source if the local or state health director determines that the exposure poses a significant risk of transmission of HIV and that the source is at high risk for HIV infection. However, if permission is denied and the source is in the custody of the Department of Correction, the Medical Director of the Division of Prisons may order testing of the source if the Medical Director determines that the exposure poses a significant risk of transmission of HIV and that the source is at high risk for HIV infection. Whether or not the source is tested, the attending physician of the exposed person shall be notified of the risk status of the source and the infection status of the source, if known.
 - (5) The attending physician shall notify the local health director when the physician,

in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission. Any other person may notify the local health director when the person, in good faith, has reasonable cause to suspect a person infected with HIV is not following control measures and is thereby causing a significant risk of transmission.

- (7) The Director of Health Services of the North Carolina Department of Correction and the prison facility administrator shall be notified ~~by the attending physician of any HIV-infected when~~ any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV-infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the director shall develop and implement jointly a plan to prevent transmission, including making appropriate recommendations to the unit housing classification committee.
- (13) A person charged with an offense that involves nonconsensual vaginal, anal, or oral intercourse, or that involves vaginal, anal, or oral intercourse with a child 12 years old or less shall be tested for HIV infection if:
 - (A) probable cause has been found or an indictment has been issued;
 - (B) the victim notifies the local or state health director and requests information concerning the HIV status of the defendant; and
 - (C) the local or state health director determines that the alleged sexual contact involved in the offense would pose a significant risk of transmission of HIV if the defendant were HIV infected.

If in custody, the person shall be tested by the Department of Corrections and if not in custody, the person shall be tested by the local health department. The Department of Corrections shall inform the local health director of all such test results. The local health director shall inform the victim of the results of the test, counsel the victim appropriately, and instruct the victim regarding the necessity for protecting confidentiality.

Statutory Authority G.S. 130A-144.

SUBCHAPTER 7B - HIGHWAY SAFETY

SECTION .0300 - BREATH ALCOHOL TEST REGULATIONS

**.0337 PREVENTIVE MAINTENANCE:
BREATHALYZER: MODELS 900
and 900A**

The preventive maintenance procedures for Breathalyzer Models 900 and 900A to be followed at least once during every 30 days are:

- (1) Verify appropriate sample chamber output;
- (2) Verify appropriate delivery time;
- (3) Verify appropriate timer cycle (Model 900A only);
- (4) Verify that optical system is functioning properly;
- (5) Verify instrument thermometer shows 50 degrees plus or minus 3 degrees C;
- (6) Verify alcoholic breath simulator thermometer shows proper operating temperature;
- (7) Verify instrumental calibration by conducting two consecutive alcoholic breath simulator tests and record results;
- (8) Verify alcoholic breath simulator solution is being changed every ~~44~~ 15 days or after 25 tests; whichever occurs first.

A signed copy of the preventive maintenance checklist shall be kept on file for at least three years.

Statutory Authority G.S. 20-139.1(b).

**.0347 PREVENTIVE MAINTENANCE:
BREATHALYZER: MODEL 2000**

The preventive maintenance procedures for the Breathalyzer, Model 2000 to be followed at least once during every 30 days are:

- (1) When instrument displays "INSERT TICKET", insert test record;
- (2) Verify alcoholic breath simulator thermometer shows proper operating temperature;
- (3) When "READY" appears, press "START/TEST";
- (4) When "BLOW SAMPLE" appears, collect breath sample;
- (5) When "BLOW SAMPLE" appears, connect alcoholic breath simulator and push "START/TEST", disconnect when "ANALYZE" appears;
- (6) When "BLOW SAMPLE" appears, connect alcoholic breath simulator and push "START/TEST", disconnect when "ANALYZE" appears;

- (7) When "ANALYSIS COMPLETE" appears, remove test record and record simulator results;

- (8) Verify alcoholic breath simulator solution is being changed every ~~44~~ 15 days or after 25 tests, whichever occurs first.

A signed copy of the preventive maintenance checklist shall be kept on file for at least three years.

Statutory Authority G.S. 20-139.1(b).

**.0349 PREVENTIVE MAINTENANCE:
INTOXIMETER: MODEL 3000**

The preventive maintenance procedures for the Intoximeter, Model 3000 to be followed at least once during every 30 days are:

- (1) Verify alcoholic breath simulator thermometer shows proper operating temperature and insure simulator is properly connected to instrument;
- (2) Verify instrument displays proper time and date;
- (3) Press "START" key and enter appropriate information;
- (4) Verify instrument displays expected results from the alcoholic breath simulator;
- (5) When "SUBJECT BLOW" appears, collect breath sample;
- (6) When "SUBJECT BLOW" appears, collect breath sample;
- (7) When test record ejects, remove and record simulator results;
- (8) Repeat steps (1) through (7);
- (9) Verify alcoholic breath simulator solution is being changed every ~~44~~ 15 days or after 25 ~~test~~, tests, whichever occurs first.

A signed copy of the preventive maintenance checklist shall be kept on file for at least three years.

Statutory Authority G.S. 20-139.1(b).

.0350 INTOXILYZER: MODEL 5000

The operational procedures to be followed in using the Intoxilyzer, Model 5000 are:

- (1) Insure observation period requirements have been met;
- (2) ~~(5)~~ Insure instrument displays proper time and date;
- (3) ~~(2)~~ Insure alcoholic breath simulator thermometer shows proper operating temperature and insure simulator is properly connected to instrument;
- (4) ~~(3)~~ Press "START TEST";
- (5) ~~(4)~~ When "INSERT CARD" appears, insert test record;

- (6) Enter appropriate information (keyboard instrument only);
- (7) ~~(6)~~ Insure instrument displays expected results from the alcoholic breath simulator;
- (8) ~~(7)~~ When "PLEASE BLOW" appears, collect breath sample;
- (9) ~~(8)~~ When "PLEASE BLOW" appears, collect breath sample;
- (10) ~~(9)~~ When test record ejects, remove and record times and results.

If the alcohol concentrations differ by more than 0.02, a third or subsequent test shall be administered as soon as feasible by repeating steps (1) through ~~(9)~~ (10).

Statutory Authority G.S. 20-139.1(b).

.0351 PREVENTIVE MAINTENANCE: INTOXILYZER: MODEL 5000

The preventive maintenance procedures for the Intoxilyzer Model 5000 to be followed at least once during every 30 days are:

- (1) Verify alcoholic breath simulator thermometer shows proper operating temperature and insure simulator is properly connected to instrument;
- (2) ~~(4)~~ Verify instrument displays proper time and date;
- (3) ~~(2)~~ Press "START TEST";
- (4) ~~(3)~~ When "INSERT CARD" appears, insert test record;
- (5) Enter appropriate information (keyboard instrument only);
- (6) ~~(5)~~ Verify instrument displays expected results from the alcoholic breath simulator;
- (7) ~~(6)~~ When "PLEASE BLOW" appears, collect breath sample;
- (8) ~~(7)~~ When "PLEASE BLOW" appears, collect breath sample;
- (9) ~~(8)~~ When test record ejects, remove and record simulator results;
- (10) ~~(9)~~ Repeat steps (1) through ~~(8)~~ (9);
- (11) ~~(10)~~ Verify alcoholic breath simulator solution is being changed every ~~44~~ 15 days or after 25 tests, whichever occurs first.

A signed copy of the preventive maintenance checklist shall be kept on file for at least three years.

Statutory Authority G.S. 20-139.1(b).

CHAPTER 8 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 8D - CHILDREN'S SPECIAL HEALTH SERVICES: DEVELOPMENTAL DISABILITIES BRANCH

SECTION .0200 - GENERAL POLICIES

.0204 SPONSORED CLINICS

(a) Various types of sponsored clinics, with the participation of at least one rostered physician, will be conducted periodically throughout the State of North Carolina. ~~Two initial diagnostic visits per supported medical condition will be available to all children regardless of economic status.~~

Statutory Authority G.S. 130A-124.

SECTION .0700 - ROSTERS

.0701 QUALIFICATIONS

(a) ~~The physician applicant for full rostering status must be a resident of North Carolina, licensed to practice medicine in the state, have hospital privileges in the community of his/her practice, be board-certified in a specialty with pediatric training in that specialty, and meet the applicable criteria of the American Academy of Pediatrics for that specialty.~~

(b) ~~There shall be two categories of rostered physicians under Children's Special Health Services:~~

- (1) ~~A fully rostered physician will have met all the requirements set forth in Paragraph (a) of this Rule. Physicians rostered by the program prior to the date of implementation of this Rule shall be considered fully rostered;~~
- (2) ~~A physician may be conditionally rostered if there is no fully rostered physician in the same geographic region. A conditionally rostered physician shall meet all of the requirements set forth in Paragraph (a) for a fully rostered physician, except for the requirements that a physician be board-certified or meet the applicable criteria of the American Academy of Pediatrics for that specialty. However, the physician shall possess pediatric experience in a specialty and provide services necessary for the care of children in that geographic region. The status of the conditionally rostered physician shall be reviewed every three years.~~

Children's Special Health Services shall have written policies governing the rostering process.

(a) There shall be two categories of rostered physicians under Children's Special Health Services:

- (1) In order to be accorded full rostering status, an applicant must be a resident of North Carolina, licensed to practice medicine in the state, have hospital privileges in the community of his/her practice, and be board-certified in pediatrics. Physi-

cians who are not board-certified in pediatrics may be fully rostered if they are board-certified in a specialty with pediatric training in that specialty, and:

(A) meet the applicable membership criteria of the American Academy of Pediatrics for that specialty, or

(B) meet substantially equivalent credentialing requirements for a pediatric subspecialty in a specialty.

(2) A physician may be conditionally rostered if there is no fully rostered physician in the same geographic region. A conditionally rostered physician shall meet all of the requirements set forth in Paragraph (a)(1) of this Rule for a fully rostered physician, except for the requirements that a physician be board-certified or meet the applicable membership criteria of the American Academy of Pediatrics for that specialty. However, the physician shall possess pediatric experience in a specialty and provide services necessary for the care of children in that geographic region. The status of the conditionally rostered physician shall be reviewed every three years.

(b) Physicians rostered by the Program prior to the date of implementation of this Rule shall be considered fully rostered.

(c) Children's Special Health Services shall have written policies governing the rostering process.

Statutory Authority G.S. 130A-124.

CHAPTER 10 - HEALTH: ENVIRONMENTAL HEALTH

SUBCHAPTER 10D - WATER SUPPLIES

SECTION .1600 - WATER QUALITY STANDARDS

.1624 ORGANIC CHEMICALS OTHER THAN TTHM: SAMPLING AND ANALYSIS

(e) Analysis made to determine compliance with 10 NCAC 10D .1639(a) shall be conducted as follows:

(1) Ground-water systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. Ground-water systems ~~shall~~ must sample every three months for one year for each entry point to the distribution system except as provided in Paragraph (e)(6)(i) of this Rule; sampling shall be conducted at the same location or a more representative location each quarter. Surface water systems shall

sample at points in the distribution system located beyond any point of treatment application. Surface water systems ~~shall~~ must sample each source every three months except as provided in Paragraph (e)(6)(ii) of this Rule. ~~sampling~~ Sampling shall be conducted at the same location or a more representative location each quarter for both surface and ground water systems. If a ground or surface system draws water from more than one source and sources are combined before distribution, the system shall sample at an entry point to the distribution system during periods of normal operating conditions.

(2) All community water systems and non-transient, non-community water systems serving more than 10,000 people shall analyze samples beginning no later than June 1, 1988. All community water systems and non-transient, non-community water systems serving from 3,300 to 10,000 people shall analyze samples beginning no later than the quarter which begins January 1, 1989. All other community and non-transient, non-community water systems shall analyze samples beginning no later than the quarter which begins January 1, 1991.

(3) The department or the United States Environmental Protection Agency may require confirmation samples for positive or negative results. If a confirmation sample(s) is required, then the sample result(s) shall be averaged with the first sampling result and the average used for the compliance determination in accordance with (e)(7) of this Rule. The department may delete results of obvious sampling errors from this calculation.

(4) Analysis for vinyl chloride is required only for ground water systems that have detected one or more of the following two-carbon organic compounds: Trichloroethylene, Tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene, or 1,1-dichloroethylene. The analysis for vinyl chloride is required at each distribution or entry point at which one or more of the two-carbon organic compounds were found. If the first analysis does not detect vinyl chloride, the department may reduce the frequency of vinyl chloride monitoring to once every three years for that sample location or other sample locations which are more representative of

the same source. Surface water systems may be required to analyze for vinyl chloride at the discretion of the department.

- (5) The department or individual public water systems may composite up to five samples for one or more public water systems. Compositing of samples is to be done in the laboratory by the procedures listed in this Subparagraph. Samples shall be analyzed within 14 days of collection. If any organic contaminant listed in 10 NCAC 10D .1639(a) is detected in the original composite sample, a sample from each source that made up the composite sample shall be reanalyzed individually within 14 days from sampling. The sample for reanalysis cannot be the original sample but can be a duplicate sample. If duplicates of the original samples are not available, new samples shall be taken from each source used in the original composite and analyzed for volatile organic chemicals. Reanalysis shall be accomplished within 14 days of the second sample. To composite samples, the following procedure shall be applied:

- (i) To composite samples prior to GC analysis:

- (A) Add 5 ml or equal larger amounts of each sample (up to 5 samples are allowed) to a 25 ml glass syringe. Special precautions shall be made to maintain zero headspace in the syringe.
- (B) The samples shall be cooled at 4°C during this step to minimize volatilization losses.
- (C) Mix well and draw out a 5-ml aliquot for analysis.
- (D) Follow sample introduction, purging, and desorption steps described in the method.
- (E) If less than five samples are used for compositing, a proportionately smaller syringe may be used.

- (ii) To composite samples prior to GC/MS analysis:

- (A) Inject 5-ml or equal larger amounts of each sample (up to 5 samples are allowed) into a 25-ml purging device using the sample introduction technique described in the method.
- (B) The total volume of the sample in the purging device shall be 25 ml.
- (C) Purge and desorb as described in the method.

- (6) The monitoring frequency for sampling specified in Paragraph (e)(1) of this Rule, shall be as follows:

- (i) For ground water systems:

- (A) When volatile organic chemicals are not detected in the first sample (or any subsequent samples that may be taken) and the system is not vulnerable as defined in Paragraph (e)(6)(iv) of this Rule, monitoring may be reduced to one sample and shall be repeated every five years.

- (B) When volatile organic chemicals are not detected in the first sample (or any subsequent sample that may be taken) and the system is vulnerable as defined in Paragraph (e)(6)(iv) of this Rule, monitoring of one sample must ~~shall~~ be repeated every 3 years for systems with more than 500 connections, and monitoring of one sample must ~~shall~~ be repeated every 5 years for systems with 500 connections or less.

- (C) If volatile organic chemicals are detected in the first sample (or any subsequent sample that may be taken), regardless of vulnerability, monitoring shall be repeated every 3 months, as required under Paragraph (e)(1) of this Rule.

- (ii) For surface water systems:

- (A) When volatile organic chemicals are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is not vulnerable as defined in Paragraph (e)(6)(iv), monitoring is only required when the department deems it necessary.

- (B) When volatile organic chemicals are not detected in the first year of quarterly sampling, (or any other subsequent sample that may be taken) and the system is vulnerable as defined in Paragraph (e)(6)(iv) of this Rule, monitoring shall be repeated every 3 years for systems with more than 500 connections and monitoring shall be repeated every 5 years for systems with 500 connections or less.

- (C) When volatile organic chemicals are detected in the first year of quarterly sampling (or any other subsequent sample that may be taken), regardless of vulnerability, monitoring shall be repeated every 3 months as required under Paragraph (e)(1) of this Rule.

- (iii) The department may reduce the frequency of monitoring to once per year for a groundwater system or surface water system detecting volatile organic chemicals at levels consistently less than the maximum contaminant level for three consecutive years.
- (iv) Vulnerability of each public water system shall be determined by the department based upon an assessment of previous monitoring results, the number of persons served by public water system, proximity of a smaller system to a larger system, proximity to commercial or industrial use, disposal, or storage of volatile synthetic organic chemicals, and protection of the water source.
- (v) A system is deemed to be vulnerable for a period of 3 years after any positive measurement of one or more contaminants listed in either 10 NCAC 10D .1639(a) or .1638(d) and (h) except for trihalomethanes and other demonstrated disinfection by-products.
- (7) Compliance with 10 NCAC 10D .1639(a) shall be determined based on the results of running annual average of quarterly sampling for each sampling location. If one location's average is greater than the maximum contaminant level, then the system shall be deemed to be out of compliance. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, only that part of the system that exceeds any maximum contaminant level as specified in 10 NCAC 10D .1639(a) will be deemed out of compliance. The department may reduce the public notice requirement to that portion of the system which is out of compliance. If any one sample results would cause the annual average to be exceeded, then the system shall be deemed to be out of compliance immediately. For systems that only take one sample per location because no volatile organic chemicals were detected, compliance shall be based on that one sample.
- (8) Analyses made to determine compliance with this Paragraph shall be made in accordance with methods adopted by the United States Environmental Protection Agency and codified as 40 C.F.R. 141.24(g)(10) which are hereby adopted by reference in accordance with G.S. 150B-14(c). A list of these methods is

available from the Public Water Supply Branch, Environmental Health Section, Division of Health Services, P. O. Box 2091, Raleigh, NC 27602-2091.

- (9) The department may accept monitoring data collected after January 1, 1983, for purposes of compliance, if the data is consistent with the other requirements in (e) of this Rule. The department may use that data to represent the initial monitoring if the system is determined by the department not to be vulnerable under the requirements of this Rule. In addition, the results of the United States Environmental Protection Agency's Ground Water Supply Survey may be used in a similar manner for systems supplied by a single well.
- (10) The department may increase required monitoring where necessary to detect variations within the system.
- ~~(11) A water supplier for a public water system supplying fewer than 150 service connections may comply with the monitoring requirements by sending a letter to the department specifying that the system is available for sampling. No samples may be sent to the department unless so requested. The letter must be sent to the Department no later than January 1, 1991.~~
- (f) The department may determine compliance or initiate enforcement action based upon analytical results and other information compiled by the department's sanctioned representatives and agencies.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1633 PUBLIC NOTIFICATION REQUIREMENTS (REPEALED)

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1638 SPECIAL MONITORING FOR ORGANIC CHEMICALS

- (a) All community and non-transient, non-community water systems shall begin monitoring for the contaminants listed in Paragraph ~~(e)~~ (d) in this Rule as follows:
 - (1) A system serving more than 10,000 persons shall begin monitoring no later than June 1, 1988.
 - (2) A system serving from 3,300 to 10,000 persons shall begin monitoring no later than the quarter beginning January 1, 1989.

(3) A system serving less than 3,300 shall begin monitoring no later than the quarter beginning January 1, 1991.

(b) Surface water systems shall sample in the distribution system representative of each water source or at entry points to the distribution system after any application of treatment; the minimum number of samples is one year of quarterly samples per water source. Ground water systems shall sample at points of entry to the distribution system representative of each well after any application of treatment; the minimum number of samples is one sample per entry point to the distribution system.

(g) Public water systems may use monitoring data collected any time after January 1, 1983, provided the monitoring program was consistent with the requirements of this Rule. In addition the results of the U.S. Environmental Protection Agency's Ground Water Supply Survey may be used for systems supplied by a single well.

(i) A water supplier for a community water system or non-transient, non-community water system serving fewer than 150 service connections may comply with this Rule by sending a letter to the department stating that its system is available for sampling. The water supplier shall not send samples to the Department unless requested to do so by the Department.

(k) The Department or a water supplier may composite up to five samples when monitoring for substances in Paragraphs (d) and (h) of this Rule.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1640 REPORTING FOR ORGANIC CHEMICALS

(d) The water supplier shall notify persons served by the system of the availability of the results of sampling by including a notice in the first set of water bills issued after the receipt of the results, or by written or newspaper notice, within three months. The notice shall identify a person and telephone number to contact for information on the monitoring results. For surface water systems, public notice is required only after the first quarter's monitoring and shall include a statement that additional monitoring will be conducted for three more quarters with the results available upon request.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1642 PUBLIC NOTICE

(a) The supplier of water shall provide notice to consumers served by a public water system when the system fails to comply with a maximum contaminant level or treatment technique established by this Subchapter or which fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption granted under this Subchapter as follows:

(1) For a community water system:

(A) Notice shall be given by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure. If the area is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(B) In addition, notice shall be given by mail delivery (by direct mail or with the water bill) or by hand delivery, no later than 45 days after the violation or failure. Notices shall be repeated at least once every three months for as long as the violation or failure exists. The Department may waive the requirements for mail or hand delivery if it determines that the supplier of water has corrected the violation or failure within the 45-day period. The Department will make the waiver in writing and within the 45-day period.

(C) When the area of the community water system is not served by a daily or weekly newspaper of general circulation, notice shall be given within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation or failure exists. Notice by hand delivery shall be repeated at least once every three months for as long as the violation or failure exists.

(D) For violations of the maximum contaminant levels of contaminants specified by the Department as posing an acute risk to human health and for violation of the maximum contaminant level for nitrate as defined in 40 C.F.R. §141.11(b) and determined according to 40 C.F.R. §141.23(d) which are hereby adopted by reference pursuant to G.S. 150B-14(c), notice shall be given by furnishing a copy of the notice to the radio and television stations serving the area of the community water system as soon as possible but in

no case later than 72 hours after the violation.

- (2) For a non-community water system notice shall be given within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation or failure exists. Notice by hand delivery shall be repeated at least once every three months for as long as the violation or failure exists.

(b) The supplier of water shall provide notice to consumers served by a public water system when the supplier fails to perform monitoring required by this Section, fails to comply with a testing procedure established by this Subchapter or is subject to a variance or an exemption granted under this Subchapter, as follows:

- (1) For a community water system:

(A) Notice shall be given within three months of the violation by publication in a daily newspaper of general circulation in the area served by the system. If the area is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(B) In addition, after publication notice shall be given by mail delivery (by direct mail or with the water bill) or by hand delivery at least once every three months for as long as the violation exists or a variance or exemption remains in effect.

(C) When the area of the community water system is not served by a daily or weekly newspaper of general circulation notice shall be given within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation exists or a variance or exemption remains in effect. Notice by hand delivery shall be repeated at least once every three months for as long as the violation exists or the variance or exemption remains in effect.

- (2) For a non-community water system notice shall be given within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting shall continue for as long as the violation exists, or a variance or ex-

emption remains in effect. Notice by hand delivery shall be repeated at least once every three months for as long as the violation exists or a variance or exemption remains in effect.

- (3) In lieu of the requirements of Paragraphs (b)(1) and (2) of this Rule the supplier of water, at the discretion of the Department, may provide less frequent notice for minor monitoring violations as defined by the Department, if EPA has approved the Department's application for a program revision under 40 C.F.R. §142.16. Notice of such violations shall be given no less frequently than annually.

(c) The supplier of water for a community water system shall give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(d) Each notice required by this Rule shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measure the consumer should take until the violation is corrected. Each note shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice. Where appropriate, the notice shall be multi-lingual.

(e) When providing information on potential adverse health effects required by Paragraph (d) of this Rule in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of variances or exemptions, or notices of failure to comply with a variance or exemption schedule, the supplier of water shall include the language specified in 40 C.F.R. §141.32(e) and (f) which is hereby adopted by reference pursuant to G.S. 150B-14(c). Copies of the required notice language may be obtained from the Public Water Supply Branch, Environmental Health Section, Division of Health Services, Post Office Box 2091, Raleigh, North Carolina 27602-2091.

(f) The Department may give public notice on behalf of the supplier of water if the Department complies with the requirements of this Rule.

However, the supplier of water remains legally responsible for ensuring that the requirements of this Rule are met.

(g) The provisions of this Rule do not apply to 10 NCAC 10D .1619, .1620 and .1621(a).

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

SECTION .2400 - ADMINISTRATIVE PENALTIES

.2409 PAYMENTS: HEARING

(a) Within ~~30~~ 60 days after receipt of notification of a penalty assessment, the respondent must tender payment, or submit in writing a request for an administrative hearing. All appeals shall be made in accordance with G.S. 150B and 10 NCAC 1B.

Statutory Authority G.S. 130A-22(f).

SUBCHAPTER 10F - HAZARDOUS WASTE MANAGEMENT

.0032 STANDARDS FOR OWNERS/ OPERATORS OF HWMF'S - PART 264

(i) "Financial Requirements" contained in 40 CFR 264.140 to 264.151 (Subpart H) have been adopted by reference in accordance with G.S. 150B-14(c), except that 40 CFR 264.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.145(a)(3), (a)(4), (a)(5), (a)(6), and 40 CFR 264.151(a)(1), Section 15 and 40 CFR 264.151(h), are not adopted by reference.

The following shall be substituted for the provisions of 40 CFR 264.151(h) which are not adopted by reference.

(h) A corporate guarantee, as specified in Sections 264.143(f) or 264.145(f) or Sections 265.143(e) or 265.145(e) of this Chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of State], herein referred to as guarantor, to the North Carolina Department of Human Resources (DHR), obligee, on behalf of our subsidiary [owner or operator] of [business address].

[Note: All requirements in this document referenced as 40 CFR 264 have been adopted in North Carolina as 10 NCAC 10F .0032, and all requirements referenced as 40 CFR 265 have been adopted in North Carolina as 10 NCAC 10F .0033.]

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 40 CFR 264.143(f), 264.145(f), 265.143(e), and 265.145(e).
2. [Owner or operator] owns or operates the following hazardous waste management facility(ies) covered by this guarantee: [List for each facility: EPA Identification Number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]
3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by Subpart G of 40 CFR Parts 264 and 265 for the closure and post-closure care of facilities as identified above.
4. For value received from [owner or operator], guarantor guarantees to DHR that in the event that [owner or operator] fails to perform [insert "closure," "post-closure care" or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in Subpart H of 40 CFR Parts 264 and 265.
5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to DHR and to [owner or operator] that he intends to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.
6. The guarantor agrees to notify DHR by certified mail, of a voluntary or involun-

tary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by DHR of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.
8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to 40 CFR Parts 264 or 265.
9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of Subpart H of 40 CFR Parts 264 and 265 for the above-listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to DHR and to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both DHR and [owner or operator], as evidenced by the return receipts.
10. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, and obtain written approval of such assurance from DHR within 90 days after a notice of cancellation by the guarantor is received by DHR from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].
11. Guarantor expressly waives notice of acceptance of this guarantee by DHR or by [owner or operator]. Guarantor also expressly waives notice of amendments or modification of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in Section 264.151(h) of 10 NCAC 10F .0032(i) as such regulations were constituted on the date first above written.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(s) Appendices I through IX contained in 40 CFR 264 have been adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 130A-294(c).

.0034 INTERIM STATUS STANDARDS FOR PERMITTING - PART 270

(b) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart B, Permit Application) have been adopted by reference in accordance with G.S. 150B-14(c).

- (1) 40 CFR 270.10, General Application Requirements;
- (2) 40 CFR 270.11, Signatories to Permit Applications and Reports;
- (3) 40 CFR 270.12, Confidentiality of Information;
- (4) 40 CFR 270.13, Contents of Part A of the Permit Applications;
- (5) 40 CFR 270.14, Contents of Part B General Requirements;
- (6) 40 CFR 270.15, Specific Part B Information Requirements for Containers;
- (7) 40 CFR 270.16, Specific Part B Information Requirements for Tanks;
- (8) 40 CFR 270.17, Specific Part B Information Requirements for Surface Impoundments;
- (9) 40 CFR 270.18, Specific Part B Information Requirements for Waste Piles;
- (10) 40 CFR 270.19, Specific Part B Information Requirements for Incinerators;
- (11) 40 CFR 270.20, Specific Part B Information Requirements for Landfill Land Treatment Facilities;
- (12) 40 CFR 270.21, Specific Part B Information Requirements for Land Treatment Facilities Landfill;
- (13) 40 CFR 270.23 Specific Part B information requirements for miscellaneous units;
- (14) 40 CFR 270.29 Permit Denial;
- (15) ~~(13)~~ The following are additional specific Part B information requirements for all treatment, storage or disposal facilities:

- (A) A description and documentation of the public meetings as required in 10 NCAC 10F .0032(q)(7);
 - (B) A description of the hydrological and geological properties of the site including, as a minimum, flood plains, depth to water table, ground water travel time, seasonal and longterm groundwater level fluctuations, proximity to public water supply watersheds, consolidated rock, soil pH, soil cation exchange capacity, soil characteristics and composition and permeability, existence of cavernous bedrock and seismic activity, slope, mines, climate, location and withdrawal rates of surface water users within the immediate drainage basin and well water users within a one mile radius of the facility; water quality information of both surface and groundwater within 1000 ft. of the facility, and a description of the local air quality;
 - (C) A description of the facility's proximity to and potential impact on wetlands, endangered species habitats, parks, forests, wilderness areas, historical sites, mines, and air quality;
 - (D) A description of local land use including residential, industrial, commercial, recreational, agricultural and the proximity to schools and airports;
 - (E) A description of the proximity of the facility to waste generators and population centers; a description of the method of waste transportation; the comments of the local community and state transportation authority on the proposed route, and route safety. Comments should include proposed alternative routes and restrictions necessary to protect the public health;
 - (F) A description of facility aesthetic factors including visibility, appearance, and noise level;
 - (G) A description of any other objective factors that the Department of Human Resources determines are reasonably related and relevant to the proper siting and operation of the facility;
- (16) ~~(14)~~ The following are additional specific Part B information requirements for comprehensive hazardous waste treatment facilities:
- (A) A description of the local zoning surrounding the facility;
 - (B) A description of the buffer zones surrounding the facility;
 - (C) A description of the availability of utilities to the facility;
 - (D) A description of the availability of civil defense services to the facility;
 - (E) A description of the fire safety of the facility;
 - (F) A description of access into the facility, and the existing and proposed road network around the facility;
 - (G) The distance from the facility to the nearest polychlorinated biphenyl landfill facility and hazardous waste landfill facility;
 - (H) A description of the procedures that will be employed to ensure that hazardous waste shall not be stored for over 90 days prior to treatment or disposal;
 - (I) A description of any other objective factors that the Department of Human Resources determines are reasonably related and relevant to the proper siting and operation of the facility;
- (17) ~~(15)~~ The following are additional Specific Part B Information Requirements for Long-Term Retrievable Storage, Long-Term Storage Facilities or Hazardous Waste Landfills:
- (A) The owners and operators must provide the following information about the waste and underground storage of either a hazardous waste landfill or long-term storage facility:
 - (i) Design drawings and specifications of the leachate collection and removal system;
 - (ii) Design drawings and specifications of the artificial impervious liner;
 - (iii) Design drawings and specifications of the clay or clay-like liner below the artificial liner, and a description of the permeability of the clay or clay-like liner;
 - (iv) A description of how hazardous wastes will be treated prior to placement in the facility as required in 10 NCAC 10F .0032(o)(2)(B).
 - (B) Long-term retrievable storage facilities must provide design drawings and specifications of the lighting, cement floors, shelves, platforms, inspection passageways, ventilation system, monitoring system, and safety and security precautions, and a description of how wastes will be protected from the weather and where waste identification will be placed;
- (18) ~~(16)~~ The following are additional Specific Part B Information requirements for Surface Impoundments:

PROPOSED RULES

- (A) Design drawings and specifications of the leachate collection and removal system;
 - (B) Design drawings and specifications of all artificial impervious liners;
 - (C) Design drawings and specifications of all clay or clay-like liners and a description of the clay or clay-like liner;
 - (D) Design drawings and specifications that show that the facility has been constructed in a manner that will prevent landsliding, slippage, or slumping.
- (d) The following provisions for additional permitting requirements contained in 40 CFR 270 (Subpart D, Changes to Permit) have been adopted by reference in accordance with G.S. 150B-14(c).
- (1) 40 CFR 270.40, Transfer of Permits;
 - (2) 40 CFR 270.41, Major Modification or Revocation and Reissuance of Permits;
 - (3) 40 CFR 270.42, ~~Minor Modifications of Permits~~; Permit modification at the request of the permittee; and
 - (4) 40 CFR 270.43, Termination of Permits.

Statutory Authority G.S. 130A-294(c); 130A-295(a)(1) and (2).

SUBCHAPTER 10H - INACTIVE HAZARDOUS SUBSTANCES AND WASTE DISPOSAL SITES

SECTION .0200 - PRIORITIZATION SYSTEM

.0203 SURFACE WATER MIGRATION

(a) The potential for surface water contamination is based upon route characteristics, waste containment, and waste characteristics. The score for surface water migration is determined by multiplying the score determined for route characteristics in Paragraph (b) by the score determined for waste containment in Paragraph (c) then multiplying that result by the score determined for waste characteristics in Paragraph (d) and dividing that result by ~~13.26~~ 14.82.

Statutory Authority G.S. 130A-310.12.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Mental Retardation and Substance Abuse Services intends to amend rules cited as 10 NCAC 14K .0103, .0315, .0403; 14M .0601 - .0602, .0604, .0606, .0608 - .0609, .0611 - .0616; 18J .0711; 18M .0701, .0704, .0707, .1401; 45H .0202; repeal rules cited as 10 NCAC 14M .0603, .0605, .0607;

18Q .0123, .0125 - .0134; and adopt rules cited as 10 NCAC 14M .0617 - .0621; 18M .1410.

The proposed effective date of this action is December 1, 1989.

The public hearing will be conducted at 1:00 p.m. on August 9, 1989 at Holiday Inn State Capitol, 320 Hillsborough Street, Raleigh, N.C. 27603.

Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Julie Burton, Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury Street, Raleigh, N.C. 27611, (919) 733-7971 by August 9, 1989. The hearing record will remain open for written comments from July 3, 1989 through August 9, 1989. Written comments must be sent to the above address and must state the rule(s) to which the comments are addressed. Fiscal information on these rules is also available from the same address.

CHAPTER 14 - MENTAL HEALTH: GENERAL

SUBCHAPTER 14K - CORE LICENSURE RULES FOR MENTAL HEALTH: MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES: AND SUBSTANCE ABUSE FACILITIES

SECTION .0100 - GENERAL INFORMATION

.0103 DEFINITIONS

(c) The following terms shall have the meanings specified:

- (8) "Approved supported employment conversion plan" means a planned approach to changing the type of services delivered from ADAP facility-based to supported employment. Approval of the conversion plan is the responsibility of the Regional Director of the Division in conjunction with the Area Director or his designee if the facility is operated by a contract agency of the area program or other service provider. The Division shall request involvement from appropriate personnel in the Division of Vocational Rehabilitation in the review process. The request for approval of the supported employment conversion plan shall include specific written information in the following areas:

- (A) number of clients to be moved into supported employment placements;

- (B) types of supported employment models to be used;
 (C) timeframe for the conversion period;
 (D) interim proposed facility staffing patterns and responsibilities; and
 (E) proposed budget for conversion plan.
- (9) ~~(8)~~ "Area program" means a legally constituted public agency providing mental health, mental retardation and substance abuse services for a catchment area designated by the commission. For purposes of these Rules, the term "area program" means the same as "area authority" as defined in G.S. 122C-3.
- (10) ~~(9)~~ "Assessment" means a procedure for determining the nature and extent of the problem for which the individual is seeking service.
- (11) ~~(10)~~ "Atypical development" in children means those from birth to 60 months of age who demonstrate significantly atypical behavioral socioemotional, motor, or sensory development as manifested by:
- (A) Diagnosed hyperactivity, attention deficit disorder or other behavioral disorders, or
- (B) Identified emotional/behavioral disorders such as:
- (i) delay or abnormality in achieving expected emotional milestones, such as pleasurable interest in adults and peers; ability to communicate emotional needs; and ability to tolerate frustrations.
 - (ii) persistent failure to initiate or respond to most social interactions.
 - (iii) fearfulness or other distress that does not respond to comforting by caregiver.
 - (iv) indiscriminate sociability, e.g. excessive familiarity with relative strangers.
 - (v) self-injurious or unusually aggressive behavior, or
- (C) Substantiated physical abuse, sexual abuse, or other environmental situations that raise significant concern regarding the child's emotional well-being.
- (12) ~~(11)~~ "Certified counselor" means an alcoholism, drug abuse or substance abuse counselor who is certified by the North Carolina Substance Abuse Professional Certification Board.
- (13) ~~(12)~~ "Child" means a minor between birth and 12 years of age.
- (14) ~~(13)~~ "Chronically mentally ill adult" means an individual 18 years of age or older who, as a result of a mental disorder, exhibits emotional or behavioral functioning which is so impaired as to interfere substantially with his/her capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration. In these persons, mental disability is severe and persistent, resulting in long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relations, homemaking, self-care, employment and recreation.
- (15) ~~(14)~~ "Client record" means a written account of all services provided a client from the time of formal acceptance of the client by the facility until termination of services. This information is documented on standard forms adopted by the facility which are filed in a standard order.
- (16) ~~(15)~~ "Clinical" means having to do with the active direct treatment/habilitation of client.
- (17) ~~(16)~~ "Clinical staff member" means a professional who provides active direct treatment/habilitation to a client.
- (18) ~~(17)~~ "Clinical/professional supervision" means regularly scheduled assistance by a qualified mental health professional, a qualified substance abuse professional or a qualified developmental disabilities professional to a staff member who is providing direct, therapeutic intervention to a client or clients. The purpose of clinical supervision is to ensure that each client receives appropriate treatment and/or habilitation which is consistent with accepted standards of practice and the needs of the client.
- (19) ~~(18)~~ "Contested case" means an administrative proceeding under G.S. 150B, Article 3, in which the rights, privileges, or duties of a party(s) are required by law to be determined.
- (20) ~~(19)~~ "Contract agency" means a legally constituted entity with which the area program contracts for a service(s) exclusive of intermittent purchase of service for an individually identified client.
- (21) ~~(20)~~ "Declaratory ruling" means a formal and binding interpretation as to:
- (A) the validity of a rule; or
 - (B) the applicability to a given state of facts of a statute administered by the Department of Human Resources, or a rule or order of the Department of Human Resources.
- (22) ~~(21)~~ "Detoxification" means the physical withdrawal of an individual from alcohol

- or other drugs in order that the individual can participate in rehabilitation activities.
- (23) ~~(22)~~ "Developmentally delayed children" means those whose development is delayed in one or more of the following areas: cognitive development, physical development, language/speech, self-help and psychosocial skills. The specific level of delay must be:
- (A) for children from birth to 36 months of age, documented by scores $1\frac{1}{2}$ standard deviations below the mean on standardized tests in at least one of the above areas of development. Or, it may be documented by a 20 percent delay on assessment instruments that yield scores in months; and
- (B) for children from 36 to 60 months of age, documented by test performance two standardized deviations below the mean on standardized tests in one area of development or by performance that is one standard deviation below the norm in two areas of development. Or, it may be documented by a 25 percent delay in two areas on assessment instruments that yield scores in months.
- (24) ~~(23)~~ "DFS" means the Division of Facility Services, 701 Barbour Drive, Raleigh, N.C. 27603.
- (25) ~~(24)~~ "Direct care staff" means an individual who provides active direct care, treatment or rehabilitation/habilitation services to clients on a continuous and regularly scheduled basis.
- (26) ~~(25)~~ "Dispensing medication" means preparing and packaging a prescription drug or device in a container and labeling the container with information required by state and federal law. Filling or refilling drug containers with prescription drugs for subsequent use by a client is "dispensing". Providing quantities of unit dose prescription drugs for subsequent administration is "dispensing".
- (27) ~~(26)~~ "DMH/MR/SAS" means the Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury Street, Raleigh, N.C. 27611.
- (28) ~~(27)~~ "Documentation" means provision of written, dated and authenticated evidence of the delivery of client services or compliance with statutes or rules, e.g., entries in the client record, policies and procedures, minutes of meetings, memoranda, reports, schedules, notices and announcements.
- (29) ~~(28)~~ "Drug abuse" means psychoactive substance abuse which is a residual category for noting maladaptive patterns of psychoactive substance use that have never met the criteria for dependence for that particular class of substance (criteria delineated in DSM-III-R published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of twenty-nine dollars and ninety-five cents (\$29.95) for the soft cover edition and thirty-nine dollars and ninety-five cents (\$39.95) for the hard cover edition.)
- (30) ~~(29)~~ "Drug dependence" means psychoactive substance dependence which is a cluster of cognitive behavioral, and physiologic symptoms that indicate that a person has impaired control of psychoactive substance use and continues use of the substance despite adverse consequences (criteria delineated in DSM-III-R published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of twenty-nine dollars and ninety-five cents (\$29.95) for the soft cover edition and thirty-nine dollars and ninety-five cents (\$39.95) for the hard cover edition.)
- (31) ~~(30)~~ "DWI" means driving while impaired, as defined in G.S. 20-138.1.
- (32) ~~(31)~~ "DWI substance abuse assessment" means a service provided to persons charged with or convicted of DWI to determine the presence of chemical dependency. The "assessment" involves a face-to-face interview with a substance abuse professional.
- (33) ~~(32)~~ "Evaluation" means an assessment service which identifies the nature and extent of an individual's problem through a systematic appraisal of mental, physical, behavioral, functional social, economic and/or intellectual resources of the individual, for the purposes of diagnosis and determination of the disability of the individual and the most appropriate plan, if any, for services.
- (34) ~~(33)~~ "First aid" means emergency treatment for injury or sudden illness before regular medical care is available. First aid includes artificial respiration, the Heimlich maneuver, or other Red Cross first aid techniques for relieving airway obstruction, care of wounds and burns, and temporary administering of splints.
- (35) ~~(34)~~ "Governing body" means those persons who by law, charter, articles of in-

corporation, partnership agreement, or other legally recognized manner have full legal authority for the overall operation of the facility.

(36) ~~(35)~~ "Hearing" means a contested case hearing under G.S. 150B, Article 3.

(37) ~~(36)~~ "High risk children" means those from birth to 36 months of age who:

(A) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay or atypical development;

(B) have significant atypical patterns of development (perceptual, sensory, physical, behavioral, motor anomalies) that have a high probability of resulting in developmental delay or atypical development; or

(C) have responded well to intervention efforts but for whom there is evidenced that their continued developmental progress cannot be assured without continued intervention.

(38) ~~(37)~~ "Hours of operation" means an indication of the minimum operational hours that a service is expected to be available to clients, but not prohibiting the typical closing of a service to accommodate holidays, vacations, staff development activities and weather and facility-related conditions but taking into consideration the type of service being provided.

(39) ~~(38)~~ "ICF/MR" (Intermediate Care Facility Mentally Retarded) means a facility certified as having met federal ICF MR requirements and which provides 24-hour personal care, habilitation, developmental and supportive services to persons with mental retardation or related conditions.

(40) ~~(39)~~ "Incident" means any happening which is not consistent with the routine operation of the facility or the routine care of a client and that is likely to lead to adverse effects upon a client.

(41) ~~(40)~~ "Individual goal plan" (for clients with mental retardation or other developmental disabilities) means a written plan which includes measurable, date-specific, short-range objectives which are assessed and developed or restated at least quarterly based on the strengths and needs of the client and which identifies specific staff responsibilities and relates to the annual individual program plan.

(42) ~~(41)~~ "Individual program plan" (for clients with mental retardation or other developmental disabilities) which is sometimes referred to as an "habilitation

plan," means a written plan which includes long-range objectives for the client based on evaluations, observations and other client assessment data and which is implemented following admission of the client, and assessed and redeveloped at least annually from the date of placement. The individual program plan includes a written summary of the client's progress regarding previous program plans.

(43) ~~(42)~~ "Individual treatment plan" (for mental health/substance abuse clients) means a plan of treatment for the client. The plan contains time-specific short and long term goals and strategies for implementing the goals, and identifies direct care staff responsible for the provision of treatment and rehabilitation services to the client. The individual treatment plan is synonymous with the individual service plan.

(44) ~~(43)~~ "Infant" means an individual between birth and two years of age.

(45) ~~(44)~~ "Isolation time-out" means the removal of a client from positive reinforcement to a separate room from which exit is barred but which is not locked and where there is continuous supervision by staff.

(46) ~~(45)~~ "Legend drug" means a drug that cannot be dispensed without a prescription.

(47) ~~(46)~~ "License" means a permit to operate a facility which is issued by DFS under G.S. 122C, Article 2. A regular license may be issued for a period not to exceed two years from the date of issue to a facility which is in compliance with all applicable statutes and rules. A provisional license may be issued not to exceed six months to a person who is temporarily unable to comply with a rule or rules.

(48) ~~(47)~~ "Medication" means a substance recognized in the official "United States Pharmacopoeia" or "National Formulary" intended for use in the diagnosis, mitigation, treatment or prevention of disease.

(49) ~~(48)~~ "Minor client" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.

(50) ~~(49)~~ "Neighborhood" - See "residential setting".

(51) ~~(50)~~ "Nurse" means a person licensed to practice in the State of North Carolina

- either as a registered nurse or as a licensed practical nurse.
- (52) ~~(51)~~ "Operator" means the designated agent of the governing body who is responsible for the management of a licensable facility.
- (53) ~~(52)~~ "Parent" means the biological or adoptive mother or father of a minor client.
- (54) ~~(53)~~ "Physical examination" means the procedures used by a physician or physician extender on behalf of a physician to determine the physiological and anatomical condition of the client. Physical examination also means medical examination.
- (55) ~~(54)~~ "Physician extender" means a nurse practitioner or a physician assistant approved to perform medical acts by the Board of Medical Examiners of the State of North Carolina.
- (56) ~~(55)~~ "Preschool age child" means a child three through five years of age.
- (57) ~~(56)~~ "Private facility" means a facility not operated by or under contract with an area program.
- (58) ~~(57)~~ "Program evaluation" means the systematic documented assessment of program activity to determine the effectiveness, efficiency and scope of the system under investigation, to define its strengths and weaknesses and thereby to provide a basis for informed decision-making.
- (59) ~~(58)~~ "Provider" means an individual, agency or organization that provides mental health, mental retardation or substance abuse services.
- (60) ~~(59)~~ "Psychiatric nurse" means an individual who is licensed to practice as a registered nurse in the State of North Carolina by the North Carolina Board of Nursing and who is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of experience, or has a master's degree in behavioral science with two years of supervised clinical experience, or has four years of experience in psychiatric mental health nursing.
- (61) ~~(60)~~ "Psychiatric social worker" means an individual who holds a master's degree in social work from an accredited school of social work and has two years of clinical social work experience.
- (62) ~~(61)~~ "Psychiatrist" means an individual who is licensed to practice medicine in the State of North Carolina and who has completed an accredited training program in psychiatry.
- (63) ~~(62)~~ "Psychotherapy" means a form of treatment of mental illness or emotional disorders which is based primarily upon verbal or non-verbal communication with the patient. Treatment is provided by a trained professional for the purpose of removing or modifying existing symptoms, of attenuating or reversing disturbed patterns of behavior, and of promoting positive personality growth and development.
- (64) ~~(63)~~ "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. These medications include, but are not limited to, antipsychotics, antidepressants, neuroleptics, lithium and minor tranquilizers.
- (65) ~~(64)~~ "Qualified alcoholism professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism counseling.
- (66) ~~(65)~~ "Qualified developmental disabilities professional" means an individual holding at least a baccalaureate degree in a discipline related to developmental disabilities, and at least two years of supervised rehabilitative experience in working with the mentally retarded or otherwise developmentally disabled or holding a baccalaureate degree in a field other than one related to developmental disabilities and having three years of supervised experience in working with the mentally retarded or otherwise developmentally disabled.
- (67) ~~(66)~~ "Qualified drug abuse professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of drug abuse counseling.
- (68) ~~(67)~~ "Qualified mental health professional" means any one of the following: psychiatrist, psychiatric nurse, practicing psychologist, psychiatric social worker, an individual with at least a mas-

ter's degree in a related human service field and two years of supervised clinical experience in mental health services or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.

(69) ~~(68)~~ "Qualified nutritionist" means an individual who has a Master's degree in nutrition, nutrition education or public health nutrition and who may or may not be a registered dietitian.

(70) ~~(69)~~ "Qualified substance abuse professional" means an individual who is:

(A) certified by the North Carolina Substance Abuse Professional Certification Board; or

(B) a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism and drug abuse counseling.

(71) ~~(70)~~ "Registered dietitian" means an individual who has successfully completed a national examination for the Commission on Dietetic Registration and maintains registration with that commission through approved continuing education activities/events.

(72) ~~(71)~~ "Rehabilitation" means training, care and specialized therapies undertaken to assist a client to reacquire or maximize lost skills and or functional abilities.

(73) ~~(72)~~ "Research" means inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove an hypothesis, or to explicate some principle or effect. The term "research" as used in this document means research which is not standard or conventional; involves a trial or special observation which would place the subject at risk for injury (physical, psychological or social injury), or increase the chance of disclosure of treatment; utilizes elements or steps not ordinarily employed by qualified professionals treating similar disorders of this population; or is a type of procedure that serves the purpose of the research only and does not include treatment designed primarily to benefit the individual.

(74) ~~(73)~~ "Residential setting" means a living area or zone in which the primary purpose is family residential living and which may be located in an area zoned either urban residential or rural.

(75) ~~(74)~~ "Respite discharge" means that point in time when no additional incidents of respite service are anticipated and the client record is closed.

(76) ~~(75)~~ "Respite episode" means an uninterrupted period of time during which a client receives respite services. The episode may vary in length from one hour or less to one month.

(77) ~~(76)~~ "Restraint" means the limitation of a client's freedom of movement by:

(A) physical hold for the purpose of subduing the client;

(B) "mechanical restraint" which is the use of mechanical devices for the purpose of controlling behavior including, but not limited to, cuffs, ankle straps, sheets, or restraining shirts; or

(C) "protective restraint" which is the use of protective devices to provide support and safety for weak and feeble clients, or to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, etc. Such devices may include posey vests, geri-chairs, table top chairs or soft ties.

(78) ~~(77)~~ "Restrictive facility" means a facility which employs the use of mechanical restraint or seclusion in order to restrict a client's freedom of movement. A judicial determination as specified in G.S. 122C-223 and G.S. 122C-232 is required for minor clients and incompetent adult clients who are admitted to a restrictive facility.

(79) ~~(78)~~ "Screening" means an assessment service which provides for a brief face-to-face appraisal of each individual who presents himself/herself for services, in order to determine the nature of the individual's problem and his/her need for services. Screening may also include referral to other appropriate community resources.

(80) ~~(79)~~ "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.

(81) ~~(80)~~ "Secretary" means the Secretary of the Department of Human Resources or designee.

(82) ~~(81)~~ "Severely physically disabled person" means for the purpose of ADAP (Adult Developmental Activity Program) a person:

(A) who has a severe physical disability which seriously limits his functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills);

- (B) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia and end stage renal disease; and
- (C) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.
- (83) ~~(82)~~ "Sheltered employment" means a facility's provision of work and work training by:
- (A) subcontracting from industries in the community and bringing work to the facility to be performed; or
- (B) manufacturing its own products in the facility.
- Clients served in a sheltered employment model are those who consistently achieve earning levels exceeding one-half of the minimum wage but who are not ready for independent employment activities.
- (84) ~~(83)~~ "Staff member" means any individual who is employed by the facility.
- (85) ~~(84)~~ "Substantially mentally retarded person" means for the purpose of ADAP a person who is mentally retarded to the degree of seriously limiting his functional capabilities, whose habilitation or rehabilitation can be expected to extend over a period of time, and including:
- (A) moderately mentally retarded persons;
- (B) severely mentally retarded persons;
- (C) profoundly mentally retarded persons; or
- (D) mentally retarded persons with a handicapping condition so severe as to lack the potential for employment at this time, either in a sheltered or competitive setting. In addition, such individuals must have a deficit in self-help, communication, socialization or occupational skills and be recommended by the vocational rehabilitation counselor for consideration of placement in an ADAP.
- (86) ~~(85)~~ "Support services" means services provided to enhance an individual's progress in his primary treatment habilitation program.
- (87) ~~(86)~~ "Supported employment" means a day/night service which involves paid work in a job which would otherwise be

done by a non-disabled worker. Supported employment is carried out in an integrated work site where a small number of people with disabilities work together and where the work site is not immediately adjacent to another program serving persons with disabilities. It includes intensive involvement of staff working with the individuals in these integrated settings.

- (88) ~~(87)~~ "Toddler" means an individual between one and three years of age.
- (89) ~~(88)~~ "Treatment" means the process of providing for the physical, emotional, psychological and social needs of clients through services.
- (90) ~~(89)~~ "Twenty-four hour facility in which medical care is an integral component" means a facility in which:
- (A) the medication needs of clients may be evaluated, medication prescribed and laboratory tests ordered to assist in the diagnosis, treatment and/or monitoring of problems associated with the mental health, mental retardation or other developmental disabilities or substance abuse disorder(s) of clients; and
- (B) proper referral of the client is made to medical specialists when needed.

Statutory Authority G.S. 122C-3; 122C-26; 143B-147.

SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

.0315 INDIVIDUAL TREATMENT/PROGRAM PLAN

- (d) Mental Retardation/Developmental Disability Facilities and Sheltered Workshops:
- (1) Individual program plans shall be developed and implemented within 30 days of admission to all facilities with the exception of respite care programs. The plan shall be reviewed at least quarterly and assessed and redeveloped at least annually. For clients in ADAP facility based models and sheltered workshop placements, the annual assessment shall include a review to determine the need for referral to Vocational Rehabilitation or other services. For clients in ADAP-Supported Employment-Long-Term Support, it shall include an indication of the level of need for long-term support activities and the specific type of support required. Program plans shall provide the basis for the development of individual goal plans.

Program plans shall provide a systematic approach to the habilitation of the client and substantiate the appropriateness of the habilitation goals. Program plans shall be developed in partnership with clients or individuals acting in behalf of clients. Clinical responsibility for the development and implementation of program plans shall be designated. In addition, in facilities serving infants, toddlers or preschool age children, except for those providing respite services, the program plan shall include:

- (A) goals for the client's family as well as goals for the client;
 - (B) criteria and timeframe to be used to determine progress towards goals;
 - (C) planned habilitation procedures related to the goals;
 - (D) a statement of the specific services to be provided to meet the identified client and family needs, and the initiation dates, frequency and method of service delivery;
 - (E) the designation of the staff member responsible for case management services; and
 - (F) the plans for transition into services which are the responsibility of the N.C. Department of Public Instruction.
- (2) Individual goal plans shall be developed in the appropriate developmental and vocational skill areas. Goal plans shall be assessed on a quarterly basis in all facilities with the exception of developmental disability behavior disorder group homes wherein goal plans shall be assessed on a monthly basis. Such assessment shall address the client's progress or lack of progress toward meeting the plan and review of the plan for appropriateness of established goals. Individual goal plans are not required for clients in supervised independent living, alternative family living, sheltered workshops and ADAP clients in supported employment. Individual goal plans are also not required for ADAP clients targeted for supported employment or those in the intensive training period or the long-term support period of supported employment. To be targeted as a supported employment client, the client must have been determined in writing to be appropriate for supported employment by representatives of the facility, the local unit of the Division of Vocational Rehabilitation Services and the Area Developmental Disabilities Specialist of the Area

Mental Health, Mental Retardation and Substance Abuse Program or his designee.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0400 - PHYSICAL PLANT

.0403 COMPLIANCE WITH BUILDING CODE REQUIREMENTS

(g) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1), (2), (3) and (4) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 405, Business Occupancy (B) of the N.C. State Building Code as follows:

- (1) Mental retardation/developmental disability facilities: adult developmental activity programs -facility-based models for individuals with substantial mental retardation, severe physical disabilities or other substantial developmental disabilities;

Statutory Authority G.S. 122C-26; 143B-147; 150B-14(c).

SUBCHAPTER 14M - LICENSURE RULES FOR MENTAL RETARDATION/DEVELOPMENTAL DISABILITIES FACILITIES

SECTION .0600 - ADULT DEVELOPMENTAL ACTIVITY PROGRAMS FOR INDIVIDUALS WITH SUBSTANTIAL MENTAL RETARDATION; SEVERE PHYSICAL DISABILITIES OR OTHER SUBSTANTIAL DEVELOPMENTAL DISABILITIES

.0601 INTRODUCTION

(a) An adult developmental activity program (ADAP) is a day/night service which provides organized developmental activities for adults with substantial mental retardation, severe physical disabilities or other substantial developmental disabilities to prepare the individual to live and work as independently as possible. The activities and services of an ADAP are designed to adhere to the principles of normalization and community integration aimed at increasing age-appropriate actions, images and appearance of the individual.

(b) An ADAP offers a diverse variety of specific services and activities. These include vocational evaluation, vocational training, remunerative employment, personal and community living skill development, adult basic education and long-term support, follow-up and case management. Support services to clients' families and consultation with the clients' employers and other involved agencies may also be provided. The amount of time devoted to these areas varies considerably depending on the needs

of the clients served. The amount of time devoted to these areas varies considerably depending upon the needs of the clients served. These services and activities include the following:

- (1) personal and community living skills development;
 - (2) adult basic education;
 - (3) training in the cognitive, communication and motor skills;
 - (4) leisure time utilization;
 - (5) vocational evaluation and adjustment; and
 - (6) work activity training.
- (c) Support services to families and consultation with other involved agencies may also be provided. The Rules contained in this Section are applicable to three specific models of ADAP services as follows:

- (1) ADAP - Facility Based.
The majority of the ADAP activities in this model, whether vocational or developmental in nature, are carried out on the premises of a site specifically designed for this purpose.
- (2) ADAP - Supported Employment.
The only ADAP services provided by the operator are those related to supported employment. All of the training activities in this model occur in the setting where the client actually works or lives, not in a specialized facility maintained by the operator.
- (3) ADAP - Supported Employment - Long-Term Support.
This includes both the intensive training and long-term support phase. Clients served in this model have successfully completed the intensive initial training phase of supported employment which is sponsored by and the responsibility of the Division for Vocational Rehabilitation Services. They are receiving those long-term support services which are targeted towards maintenance in the job and residential setting and independent functioning in the community. These are services which are the responsibility of the Division. Examples of such long-term support services include "refresher" vocational training to ensure that existing job skills are not lost, training in new job performance expectations, community living skill training, and consultation to other employees, employers, and families, and residential program staff.
- (d) A single facility may operate more than one of these models. Rules .0602, .0604, .0606 and .0608 through .0617 of this Section are applicable to all three models. The remaining rules are ap-

plicable to the individual model as indicated in the rule catchlines. Whatever the model provided, it is the ADAP service that is subject to licensure, not the business or organization where the client is placed for work.

Statutory Authority G.S. 122C-26; 143B-147.

.0602 COMPLIANCE WITH OTHER RULES

An ADAP shall be subject to licensure under G.S. 122C, Article 2 unless provided by a sheltered workshop facility subject to the rules of the North Carolina Division of Vocational Rehabilitation Services.

Statutory Authority G.S. 122C-26; 143B-147.

.0603 HOURS OF OPERATION (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

.0604 PHYSICAL PLANT REQUIREMENTS

(a) If the site is maintained by the ADAP, the following are applicable:

- (1) ~~(a)~~ Each facility site shall be inspected annually by an outside safety consultant with written documentation and follow-up on recommendations;
 - (2) ~~(b)~~ Each facility site shall be designed and equipped to promote the training, employment and adult status of clients;
 - (3) ~~(c)~~ Each facility work site shall eliminate architectural barriers which prohibit access to the building and use of equipment and facilities;
 - (4) ~~(d)~~ Each facility site shall provide adequate toilet facilities and drinking fountains for clients; and
 - (5) Each site shall have designated space for classroom activities.
- (b) If the site is maintained by another individual, business or organization, the ADAP shall determine that the site reflects safe working conditions for that client prior to and during placement of the client at the site.

Statutory Authority G.S. 122C-26; 143B-147.

.0605 PROVISION FOR CLASSROOM SPACE (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

.0606 PROGRAM DIRECTOR/COORDINATOR

(b) The program director/coordinator shall be at least a high school graduate or equivalent with three years of experience in mental retardation developmental disabilities programming, but preferably a baccalaureate degree with at least

one year of experience in mental retardation developmental disabilities programming.

Statutory Authority G.S. 122C-26; 143B-147.

.0607 CLIENT/STAFF RATIO (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

.0608 CLIENT EVALUATOR

(a) At least one staff member shall be designated as a client evaluator. Each facility shall have evaluation services available for all clients.

(b) The person(s) providing evaluation services client evaluator shall have a high school diploma, but preferably a college degree. and shall have completed a five day inservice training program in the evaluation component of a certified ADAP or in another training program approved by the DMH-MR-SAS. They shall be approved for such responsibilities by the privileging procedures approved by the area authority or its contract agencies.

Statutory Authority G.S. 122C-26; 143B-147.

.0609 ACTIVITIES AND SERVICES

(b) Community integration activities shall be provided on an individual basis but in groups of no larger than two to three persons whenever possible.

(c) Activities and services shall be aimed at increasing age-appropriate actions, images and appearance of the clients.

(d) Activities and services shall be directed toward the preparation of substantially handicapped adults to live as independently as possible.

Statutory Authority G.S. 122C-26; 143B-147.

.0611 SAFETY COMMITTEE

If the site is maintained by the ADAP, the following are applicable:

- (1) ~~(a)~~ A safety committee comprised of staff members and clients ~~representatives~~ shall be appointed to review accident reports and to monitor the ADAP for safety;
- (2) ~~(b)~~ The safety committee shall meet at least quarterly; and
- (3) ~~(c)~~ Minutes shall be kept of all meetings and submitted to the director coordinator with recommendations for needed changes.

Statutory Authority G.S. 122C-26; 143B-147.

.0612 BUSINESS PRACTICES

(a) The following are applicable if the ADAP seeks or receives remuneration for goods or services provided to another individual, organization or business:

- (1) ~~(a)~~ Supplies, materials or tools, if provided by the ADAP, shall be identified as a separate amount in the bid price;
- (2) ~~(b)~~ Wages paid to ADAP clients shall be on a piece rate or hourly commensurate wage;
- (3) ~~(c)~~ Each client involved in productive work shall receive a written statement for each pay period which indicates gross pay, hours worked and deductions; and
- (4) ~~(d)~~ Prices for goods produced in the ADAP shall be equal to or exceed the cost of production (including commensurate wages, overhead, tools and materials).

(b) If the client is an employee of another individual, organization or business, the ADAP shall review client earnings information on at least an annual basis to ensure appropriateness of pay rates and amounts.

Statutory Authority G.S. 122C-26; 143B-147.

.0613 ACCIDENT REPORTING

If the site is maintained by the ADAP, there shall be a written plan shall be established for the reporting of all accidents that occur during ADAP activities, whether or not they give rise to injuries requiring medical treatment. The accident report shall contain the following information:

- (1) identity of persons involved;
- (2) place of accident;
- (3) time of accident;
- (4) name of responsible supervisor;
- (5) description of the accident; and
- (6) emergency services rendered.

Statutory Authority G.S. 122C-26; 143B-147.

.0614 PROMOTION OF CLIENTS' RIGHTS

Clients shall be counseled concerning their rights and responsibilities as participants in the facility in such matters as wages, hours, working conditions, social security, redress for injury and the consequences of their own tortuous or unethical conduct.

Statutory Authority G.S. 122C-26; 143B-147.

.0615 USE OF PUBLIC TRANSPORTATION BY CLIENTS

Clients served by the ADAP shall be encouraged to use public transportation or other non-facility transportation options, if available.

Statutory Authority G.S. 122C-26; 143B-147.

.0616 SUSPENSIONS AND DISMISSALS

If the work site is managed by the ADAP, the following are applicable:

- (1) ~~(a)~~ Each ADAP shall establish written criteria and procedures for client suspensions and dismissals;
- (2) ~~(b)~~ Dismissal shall be the result of a staff assessment which shall include, but not be limited to, those behavior(s) judged to be harmful to self or others; and
- (3) ~~(c)~~ Suspensions shall be the result of a staffing process and shall be for a specified time period and include programmatic assessment and accommodations made with all suspensions reported to the referral or sponsoring agency if the agency has maintained an active relationship with the client since the time of referral.

Statutory Authority G.S. 122C-26; 143B-147.

.0617 HANDBOOK

(a) Each ADAP shall have a client handbook including, but not limited to, information about services and activities.

(b) The client handbook shall be written in a manner comprehensible to clients and reflective of adult status.

(c) Each client shall be given a handbook, and the handbook shall be reviewed with the client.

Statutory Authority G.S. 122C-26; 143B-147.

.0618 FACILITY BASED ADAP: HOURS OF OPERATION

ADAP services shall be available for client attendance at least six hours per day (exclusive of transportation time), five days per week, 12 months per year unless closed in accordance with procedures outlined in the manual (APSM 75-1) "Area Program Budgeting and Procedures Manual".

Statutory Authority G.S. 122C-26; 143B-147.

.0619 FACILITY BASED ADAP: CLIENT/STAFF RATIO

(a) Each ADAP shall maintain an overall direct service ratio of at least one full-time or full-time equivalent direct service staff member for each ten or fewer clients.

(b) For facilities having an approved supported employment conversion plan as defined in 10 NCAC 14K .0103, this standard will not apply for a maximum of ten clients or 20 percent of a

facility's average daily enrollment, whichever is greater.

Statutory Authority G.S. 122C-26; 143B-147.

.0620 SUPPORTED EMPLOYMENT: LONG-TERM SUPPORT ADAP: CLIENT STAFF RATIO

In group supported employment models, such as the mobile crew or enclave, each ADAP shall maintain an overall direct service ratio of at least one full-time equivalent direct service staff member for each eight or fewer clients. In individual placement models, such as job coach, the amount of staff contact time per client shall be commensurate with client needs and the requirements of the work setting.

Statutory Authority G.S. 122C-26; 143B-147.

.0621 ADMISSIONS CRITERIA AND PROCEDURES

(a) Each ADAP shall have an admissions committee.

(b) A pre-admission staffing shall be held for each client considered for admission to the ADAP. During the staffing, the committee shall consider information available regarding the client's medical, psychological, social, and vocational histories.

(c) Results of the pre-admission staffing shall be documented and forwarded to the referral or sponsoring agency. A representative of the ADAP admissions committee shall notify the client.

Statutory Authority G.S. 122C-26; 143B-147.

CHAPTER 18 - MENTAL HEALTH: OTHER PROGRAMS

SUBCHAPTER 18J - AREA PROGRAM MANAGEMENT STANDARDS

SECTION .0700 - QUALITY ASSURANCE

.0711 PRIVILEGING OF ALL PROFESSIONAL STAFF

(d) Professionals providing habilitation and family support services to infants and toddlers with or at risk for developmental delays or atypical development and their families shall be privileged according to the procedures outlined in the manual (APSM 120-1), "Regulations for Privileging Professionals Working With Infants and Toddlers With or At Risk for Developmental Delays or Atypical Development". This manual is adopted by reference in accordance with G.S. 150B-14(c).

Statutory Authority G.S. 122C-117; 122C-155; 143B-147; 20 USC 1471.

SUBCHAPTER 18M - REQUIRED SERVICES

SECTION .0700 - DEVELOPMENTAL DAY SERVICES FOR PRESCHOOL CHILDREN WITH DEVELOPMENTAL DISABILITIES OR DELAYS OR AT HIGH RISK FOR MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES OR DELAYS

.0701 INTRODUCTION

A developmental day service is a day/night service which provides individual habilitative programming for pre-school children with developmental disabilities or delays or at high risk for mental retardation, developmental disabilities or delays or atypical development in specialized licensed child care centers. It is designed to meet developmental needs of the children such as self-help, ~~fine and gross motor~~, physical, language and ~~communication~~, speech, and cognitive and ~~social~~ psychosocial skills in order to facilitate their functioning in a less restrictive environment, as well as to meet child care needs of families. It also offers family training and support and case management.

Statutory Authority G.S. 143B-147.

.0704 STAFF REQUIREMENTS

(d) A minimum of one certified teacher who holds certification in special education, early childhood education or elementary education shall be employed for each 20 children or less. When infants and toddlers are served, the professional responsible for fulfilling this requirement shall be privileged according to the procedures outlined in the manual (APSM 120-1), "Regulations for Privileging Professionals Working With Infants and Toddlers With or At Risk for Developmental Delays or Atypical Development". This manual is adopted by reference in accordance with G.S. 150B-14(c).

(c) If infants ~~under 18 months of age~~ are served, a minimum of one direct care staff member shall be on duty for each three infants.

(f) Assessment of the child to determine developmental delay, developmental disability, atypical development or high risk for these conditions shall be performed by ~~an appropriately credentialed professional whose training qualifies him/her to assess children in the developmental area of concern.~~ Standardized test, rating scales, developmental profiles and other instruments and procedures that meet acceptable proposed standards shall be used to document the nature and severity of the problems necessitating inter-

~~vention.~~ professional privileged according to procedures outlined in the manual (APSM 120-1) "Regulations for Privileging Professionals Working With Infants and Toddlers With or At Risk for Developmental Delays or Atypical Development", whose training qualifies him/her to assess children in the developmental area of concern.

Statutory Authority G.S. 143B-147.

.0707 INDIVIDUAL PROGRAM PLANS AND GOAL PLANS

(a) Individual program plans, with individual quarterly goal plans, shall be developed with the parent for each child.

(b) Individual goal plans shall address the developmental skill areas of self help, ~~fine and gross motor~~, physical, language and ~~communication~~, speech, cognitive and ~~social~~ psychosocial skills as indicated by needs identified in the child assessment process and parental priorities.

(c) Each review of the child's and parent's progress shall be conducted by the Developmental Day staff and the child's parents.

(d) When infants, toddlers or preschoolers are served, individual parent program plans with individual quarterly goal plans shall be developed with the parents or legally responsible person of the children served in areas indicated by needs identified in the family assessment process. This process involves gathering information about family strengths and needs related to their ability to enhance their child's development.

(e) Standardized tests, rating scales, developmental profiles and other instruments and procedures that meet acceptable professional standards shall be used to document the nature and severity of the problem necessitating intervention.

Statutory Authority G.S. 122C-51; 143B-147.

SECTION .1400 - EARLY CHILDHOOD INTERVENTION SERVICES (ECIS) FOR CHILDREN WITH MENTAL RETARDATION OR AT HIGH RISK FOR MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES OR DELAYS

.1401 INTRODUCTION

(a) An early childhood intervention service (ECIS) is a periodic service designed to promote the developmental growth of a child who is mentally retarded or otherwise developmentally disabled or delayed or who has atypical development or is at high risk for mental retardation, developmental disabilities or delays or atypical development. In addition, it provides families

with support and information on child-rearing skills and management, and services and resources available to the child and family. The service provides, on a regularly scheduled basis, comprehensive assessment and prescriptive developmental programming in such areas as cognitive, language and communication, physical, self-help, and psychosocial skill development in the client's home which may be supplemented by individual or group services at other sites. This service provides case-specific and general follow-up and consultation to other preschool programs. Case management is also a component of this service.

(b) The primary methodology of service delivery is periodic (usually weekly) home visits which may be supplemented by group or individual activities at sites other than the child's home.

Statutory Authority G.S. 143B-147; 20 USC 1471.

.1402 PROGRAM DIRECTOR/COORDINATOR

Each ECIS shall have a designated director/coordinator who holds at least a baccalaureate degree in a field related to developmental disabilities, or is registered to practice as a registered nurse in the State of North Carolina, and who has at least one year's experience in services for infants or toddlers with or at risk for developmental delays or atypical development. This includes, but is not limited to, fields such as early childhood education, child development, or special education.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1403 INTERDISCIPLINARY ECIS STAFF

(a) At least one member of the ECIS staff shall be an individual who holds a degree in education or early childhood development.

(b) The disciplines of social work, physical therapy, occupational therapy and medicine shall be represented on the staff in response to the documented needs of the children and families served. These disciplines may be represented by staff members, consultant staff, or through agreements with staff of other agencies.

(c) Assessment of the child to determine developmental delay, developmental disability, atypical development or high risk for these conditions shall be performed by an appropriately privileged professional privileged according to the procedures outlined in the manual (APSM 120-1) "Regulations for Privileging Professionals Working With Infants and Toddlers With or At Risk for Developmental Delays or Atypical De-

velopment", whose training qualifies him/her to assess children in the developmental area of concern.

Statutory Authority G.S. 143B-147; 20 USC 1471.

.1404 MEDICAL STATEMENT

(a) Each staff member, student intern, regular volunteer, substitute staff or other individual who works directly and on a continuous basis with children shall submit to the program at the time of initial approval and annually thereafter a medical statement from a licensed physician.

(b) The medical statement may be in any written form but shall be signed by the physician and indicate the general good physical health of the individual and the lack of evidence of active tuberculosis and communicable diseases.

(c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1405 INDIVIDUAL PROGRAM PLANS AND GOAL PLANS

(a) Individual program plans, with individual quarterly goal plans, shall be developed with the parent for each child.

(b) Individual quarterly goal plans shall address the developmental areas of self help, physical, language and speech, cognitive, and psychosocial skills as indicated by needs identified in the child assessment process and parental priorities.

(c) Each review of the child's progress shall be conducted by the ECIS staff and the child's parents.

(d) Individual parent program plans with individual quarterly goal plans shall be developed with the parents or legally responsible person of the children served or in areas indicated by needs identified in the family assessment process. This process involves gathering information about family strengths and needs related to their ability to enhance their child's development.

(e) Standardized tests, rating scales, developmental profiles and other instruments and procedures that meet acceptable professional standards shall be used to document the nature and severity of the problem necessitating intervention.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1406 LANGUAGE/COMMUNICATION AND HEARING SERVICES

Each ECIS shall provide or secure language communication and hearing services for each child in need of such service. This service shall include assessment, programming, prescription, monitoring and specialized diagnostic services.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1407 PHYSICAL THERAPY SERVICES

Each ECIS shall provide or secure physical therapy services for each child in need of such services. These services shall include assessment, programming, prescription monitoring, and specialized diagnostic services.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1408 PARENT COUNSELING SERVICES

Each ECIS shall provide or secure counseling services for parents in need of such services.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1409 BEHAVIOR MANAGEMENT TRAINING FOR PARENTS

Each ECIS shall provide or secure training in behavior management techniques for parents in need of such services.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

.1410 FOLLOW ALONG CONTACTS

At least semi-annual follow along contacts for a period of not less than one year shall be made on behalf of children who have been discharged from the ECIS.

Statutory Authority G.S. 122C-51; 143B-147; 20 USC 1471.

SUBCHAPTER 18Q - GROUP HOMES FOR ADULTS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

SECTION .0100 - EARLY CHILDHOOD INTERVENTION SERVICES (ECIS) FOR CHILDREN WITH MENTALLY RETARDATION OR AT HIGH RISK FOR MENTAL RETARDATION OR OTHER DEVELOPMENTALLY DISABILITIES OR DELAYS

.0123 INTRODUCTION (REPEALED)

Statutory Authority G.S. 143B-147.

- .0125 PROGRAM DIRECTOR/COORDINATOR (REPEALED)**
- .0126 INTERDISCIPLINARY ECIS STAFF (REPEALED)**
- .0127 MEDICAL STATEMENT (REPEALED)**
- .0128 INDIVIDUAL PROGRAM PLANS AND GOAL PLANS (REPEALED)**
- .0129 LANGUAGE/COMMUNICATION AND HEARING SERVICES (REPEALED)**
- .0130 PHYSICAL THERAPY SERVICES (REPEALED)**
- .0131 PARENT TRAINING GOAL PLANS (REPEALED)**
- .0132 PARENT COUNSELING SERVICES (REPEALED)**
- .0133 BEHAVIOR MANAGEMENT TRAINING FOR PARENTS (REPEALED)**
- .0134 FOLLOW ALONG CONTACTS (REPEALED)**

Statutory Authority G.S. 122-55.5; 143B-147.

CHAPTER 45 - NORTH CAROLINA DRUG COMMISSION

SUBCHAPTER 45H - DRUG TREATMENT FACILITIES

SECTION .0200 - SCHEDULES OF CONTROLLED SUBSTANCES

.0202 SCHEDULE I

(d) Hallucinogenic Substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation (for purposes of this Paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (26) ~~4-methylaminorex (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline)~~ 1590
- (26) (27) Thiophene analog of phencyclidine Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP, TCP. 7470

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous

system, including its salts, isomers, and salts of isomers:

- | | |
|--|------|
| (1) Fenethylline | 1503 |
| (2) (plus minus)cis-4-methylaminorex [(plus/minus)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine] (also known as 2-amino-4-methyl-5-phenyl-2-oxazoline) | 1590 |
| (3) (2) N-ethylamphetamine | 1475 |

Statutory Authority G.S. 90-88; 90-89; 143B-147.

TITLE 15 - DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the NRCD - Environmental Management Commission intends to amend rules cited as 15 NCAC 2B .0216 and .0309.

The proposed effective date of this action is March 1, 1990.

The public hearing will be conducted at 7:00 p.m. on August 2, 1989 at Montgomery Community College, Auditorium, Old Biscoe Road, Troy, NC.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information contact Steve Zoufaly, Division of Environmental Management, P.O. Box 27687, Raleigh, NC 27611, (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

.0216 OUTSTANDING RESOURCE WATERS

(c) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (1) Specific actions to protect the outstanding resource values of the listed waterbodies include no new discharges, no flow expansions of existing discharges, and stormwater controls for all development activities requiring a Sediment/Erosion Control Plan as follows:

Low Density Option: Developments which limit single family developments to one acre lots and other type developments to 12 percent built-upon area will be deemed to comply with this requirement. More stringent requirements may be required by the Environmental Management Commission in very sensitive areas. High Density Option: Higher density developments will be allowed if stormwater control systems (preferably wet detention ponds) are installed, operated and maintained which control the runoff from all built-upon areas generated from one inch of rainfall. The size of the control system must take into account the runoff from any pervious surfaces draining to the system. More stringent requirements may be required by the Environmental Management Commission in very sensitive areas.

- (J) Barnes Creek (Yadkin River Basin, Index No. 13-2-18) from source to the Uwharrie River including all tributary waters will have no new discharges of waste nor will any existing discharges be allowed to expand beyond their existing permitted wasteflow.

Statutory Authority G.S. 143-214.1.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0309 YADKIN-PEE DEE RIVER BASIN

(c) The Yadkin-Pee Dee River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) March 1, 1990.

(f) The Schedule of Classifications and Water Quality Standards for the Yadkin River Basin was amended effective March 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

PROPOSED RULES

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend rules cited as 15 NCAC 2D .0505, .0535, .0902; 2H .0602; and adopt rules cited as 15 NCAC 2D .0946, .1101 - .1108; 2H .0610.

The proposed effective date of this action is December 1, 1989.

The public hearing will be conducted at 1:00 p.m. at the following places and dates:

August 4, 1989
Ground Floor Hearing Room
Archdale Building
512 North Salisbury Street
Raleigh, NC

August 9, 1989
Environmental Protection Auditorium
Rankin Health Center
1200 Blythe Boulevard
Charlotte, NC

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Persons desiring to comment on the proposals are requested to give written notice thereof on or before the hearing date. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The record of proceedings will remain open for 30 days following the hearing to receive additional written statements. To be included, the statement must be received by the Department within 30 days after the hearing date.

Additional information concerning the hearing or the proposals may be obtained by contacting:

Mr Thomas C. Allen
Division of Environmental Management
P.O. Box 27687
Raleigh, North Carolina 27611-7687
(919) 733-3340

SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0500 - EMISSION CONTROL STANDARDS

.0505 CONTROL OF EMISSIONS FROM INCINERATORS

(c) Emissions from all incinerators at a plant site where the total incinerator capacity is greater than 250 pounds per hour shall not cause any of the following ambient levels in milligrams per cubic meter at 77 degrees Fahrenheit and 29.92 inches of mercury (except for asbestos) to be exceeded beyond the premises:

| | Annual (Carcinogens) |
|---|------------------------------------|
| (1) acetaldehyde | |
| (2) acetic acid | |
| (3) acrolein | |
| (4) ammonia | |
| (5) aniline | |
| (6) arsenic and compounds | 2.3×10^{-7} |
| (7) asbestos | 2.8×10^{-11} fibers/ml |
| (8) aziridine | |
| (9) benzidine and salts | 1.5×10^{-8} |
| (10) benzo(a)pyrene | 3.3×10^{-5} |
| (11) benzyl chloride | |
| (12) beryllium | 4.1×10^{-6} |
| (13) beryllium chloride | 4.1×10^{-6} |
| (14) beryllium fluoride | 4.1×10^{-6} |
| (15) beryllium nitrate | 4.1×10^{-6} |
| (16) bis-chloromethyl ether | 3.7×10^{-7} |
| (17) bromide | |
| (18) cadmium | 5.5×10^{-6} |
| (19) cadmium acetate | 5.5×10^{-6} |
| (20) cadmium bromide | 5.5×10^{-6} |
| (21) carbon disulfide | |
| (22) chlorine | |
| (23) chlorobenzene | |
| (24) chloroprene | |
| (25) cresol | |
| (26) p-dichlorobenzene | |
| (27) dichlorodi- fluoromethane | |
| (28) dichloroflu- oromethane | |
| (29) di(2-ethylhexyl) phthalate | |
| (30) dimethyl sulfate | |
| (31) 1,4-dioxane | |
| (32) epichlorohydrin | 8.3×10^{-2} |
| (33) ethyl acetate | |
| (34) ethylenediamine | |
| (35) ethylene dibromide | 4.0×10^{-4} |
| (36) ethylene dichloride | 3.8×10^{-3} |
| (37) ethylene glycol monoethyl ether | |
| (38) ethyl mercaptan | |
| (39) fluorides | |
| (40) formaldehyde | |

PROPOSED RULES

| | | <u>24-hour</u> | <u>1-hour</u> | <u>15-minute</u> |
|-----------------------------|----------------------------|--------------------|-------------------|-------------------|
| | | <u>(Chronic</u> | <u>(Acute</u> | <u>(Acute</u> |
| | | <u>Toxicants)</u> | <u>Systemic</u> | <u>Irritants)</u> |
| | | | <u>Toxicants)</u> | |
| (41) hexachlorocyclo- | | | | |
| pentadiene | | | | |
| (42) hexachlorodibenzo- | | | | |
| p-dioxin | <u>7.6x10⁻⁸</u> | | | |
| (43) n-hexane | | | | <u>27</u> |
| (44) hexane isomers | | (1) | | <u>3.7</u> |
| except n-hexane | | (2) | | <u>0.08</u> |
| (45) hydrazine | | (3) | | <u>2.7</u> |
| (46) hydrogen chloride | | (4) | | |
| (47) hydrogen cyanide | | (5) | <u>1</u> | |
| (48) hydrogen fluoride | | (6) | | |
| (49) hydrogen sulfide | | (7) | | |
| (50) maleic anhydride | | (8) <u>0.006</u> | | |
| (51) manganese and | | (9) | | |
| compounds | | (10) | | |
| (52) manganese | | (11) | <u>0.5</u> | |
| cyclopentadienyl | | (12) | | |
| tricarbonyl | | (13) | | |
| (53) manganese tetroxide | | (14) | | |
| (54) mercury, alkyl | | (15) | | |
| (55) mercury, aryl and | | (16) | | |
| inorganic compounds | | (17) | | <u>0.2</u> |
| (56) mercury, vapor | | (18) | | |
| (57) methyl chloroform | | (19) | | |
| (58) methyl ethyl ketone | | (20) | | |
| (59) methyl isobutyl ketone | | (21) <u>0.186</u> | | |
| (60) methyl mercaptan | | (22) <u>0.075</u> | | <u>0.9</u> |
| (61) nickel dust | <u>3.3x10⁻⁵</u> | (23) | | |
| (62) nickel subsulfide | <u>2.1x10⁻⁶</u> | (24) <u>0.24</u> | <u>3.5</u> | |
| (63) nitric acid | | (25) | <u>2.2</u> | |
| (64) nitrobenzene | | (26) | | <u>66</u> |
| (65) N-nitrosodi- | | (27) <u>248</u> | | |
| methylamine | <u>5.0x10⁻⁵</u> | (28) <u>0.5</u> | | |
| (66) pentachlorophenol | | (29) <u>0.03</u> | | |
| (67) phenol | | (30) <u>0.003</u> | | |
| (68) phosgene | | (31) <u>0.56</u> | | |
| (69) phosphine | | (32) | | |
| (70) polychlorinated | | (33) | <u>140</u> | |
| biphenyls | <u>8.3x10⁻⁵</u> | (34) <u>0.3</u> | <u>2.5</u> | |
| (71) styrene | | (35) | | |
| (72) sulfuric acid | | (36) | | |
| (73) 1,1,1,2-tetrachloro- | | (37) <u>0.12</u> | <u>1.9</u> | |
| 2,2-difluoroethane | | (38) | <u>0.1</u> | |
| (74) 1,1,2,2-tetrachloro- | | (39) <u>0.016</u> | <u>0.25</u> | |
| 1,2-difluoroethane | | (40) | | <u>0.15</u> |
| (75) 1,1,1,2-tetrachloro- | | (41) <u>0.0006</u> | <u>0.01</u> | |
| ethane | <u>6.3x10⁻³</u> | (42) | | |
| (76) toluene | | (43) <u>1.1</u> | | |
| (77) toluene- | | (44) | | <u>360</u> |
| 2,4-diisocyanate | | (45) <u>0.0006</u> | | |
| (78) trichlorofluoro- | | (46) | | <u>0.7</u> |
| methane | | (47) <u>0.14</u> | <u>1.1</u> | |
| (79) 1,1,2-trichloro- | | (48) <u>0.03</u> | | <u>0.25</u> |
| 1,2,2-trifluoroethane | | (49) | | <u>2.1</u> |
| (80) vinyl chloride | <u>3.8x10⁻⁴</u> | (50) <u>0.012</u> | <u>0.1</u> | |
| (81) vinylidene chloride | | (51) <u>0.031</u> | | |
| (82) xylene | | (52) <u>0.0006</u> | | |
| | | (53) <u>0.0062</u> | | |

PROPOSED RULES

| | | | |
|------|---------|-------|-------|
| (54) | 0.00006 | | |
| (55) | 0.0006 | | |
| (56) | 0.0006 | | |
| (57) | 12 | | 245 |
| (58) | 3.7 | | 88.5 |
| (59) | 2.56 | 30 | |
| (60) | | 0.05 | |
| (61) | | | |
| (62) | | | |
| (63) | | | 1 |
| (64) | 0.06 | 0.5 | |
| (65) | | | |
| (66) | 0.003 | 0.025 | |
| (67) | 0.95 | | |
| (68) | 0.0025 | | |
| (69) | | | 0.13 |
| (70) | | | |
| (71) | 1.34 | | 42.5 |
| (72) | 0.012 | 0.1 | |
| (73) | 52 | | |
| (74) | 52 | | |
| (75) | | | |
| (76) | 4.7 | | 56 |
| (77) | 0.0005 | | 0.015 |
| (78) | | 560 | |
| (79) | | | 950 |
| (80) | | | |
| (81) | 0.12 | | |
| (82) | 2.7 | | 65 |

(d) After December 1, 1990, emissions from all incinerators at a plant site where the total incinerator capacity is greater than 250 pounds per hour shall not cause any of the following ambient levels in milligrams per cubic meter at 77 degrees Fahrenheit and 29.92 inches of mercury to be exceeded beyond the premises:

| | Annual (Carcinogens) |
|---------------------------|-------------------------|
| (1) acrylonitrile | 1.5×10^{-4} |
| (2) ammonium chromate | 8.3×10^{-8} |
| (3) ammonium dichromate | 8.3×10^{-8} |
| (4) benzene | 1.2×10^{-4} |
| (5) 1,3-butadiene | 1.7×10^{-4} |
| (6) calcium chromate | 8.3×10^{-8} |
| (7) carbon tetrachloride | 6.7×10^{-3} |
| (8) chloroform | 4.3×10^{-3} |
| (9) chromic acid | 8.3×10^{-8} |
| (10) chromium (VI) | 8.3×10^{-8} |
| (11) ethylene oxide | 2.7×10^{-5} |
| (12) lithium chromate | 8.3×10^{-8} |
| (13) methylene chloride | 2.4×10^{-2} |
| (14) perchloroethylene | 1.9×10^{-1} |
| (15) potassium chromate | 8.3×10^{-8} |
| (16) potassium dichromate | 8.3×10^{-8} |
| (17) sodium chromate | 8.3×10^{-8} |
| (18) sodium dichromate | 8.3×10^{-8} |
| (19) strontium chromate | 8.3×10^{-8} |
| (20) tetrachlorodibenzo- | |

p-dioxin 3.0×10^{-9}
 (21) trichloroethylene 5.9×10^{-2}

(e) Ambient air concentrations shall be determined by using appropriate Environmental Protection Agency dispersion modeling procedures or other methods specified by the director. Ambient air concentrations are to be evaluated for annual period over a calendar year, for 24-hour periods from midnight to midnight, for one-hour periods beginning on the hour, and for 15-minute periods beginning on the hour or 15, 30, or 45 minutes after the hour. The identification of each toxic air pollutant emitted and its corresponding emission rate shall be determined using mass balancing analysis, source testing, or other methods acceptable to the director.

(f) For incinerators at a plant site where the total incinerator capacity is greater than 250 pounds per hour, the emissions of:

(1) hydrogen chloride shall not exceed four pounds per hour unless the emission is reduced by at least 99 percent by weight and;

(2) mercury shall not exceed seven pounds per 24-hour period.

(g) Any incinerator owned by one person used to burn waste generated by another person shall meet the requirements of Paragraph (c), (d), and (f) of this Rule including incinerators at plant sites with an incinerator capacity of 250 pounds per hour or less.

(h) The owner or operator of an incinerator subject to Paragraph (c) or (f) of this Rule that:

(1) began construction after November 30, 1989, shall be in compliance with Paragraph (c) and (f) of this Rule before beginning operation.

(2) began construction before December 1, 1989, shall adhere to the following increments of progress and schedules:

(A) Documentation that the incinerator meets the requirements of Paragraphs (c) and (f) of this Rule or an air permit application including final plans and a compliance schedule shall be submitted before:

(i) June 1, 1990, for incinerators at plant sites with an incinerator capacity of 800 pounds per hour or more;

(ii) December 1, 1990, for incinerators at plant sites with an incinerator capacity of less than 800 pounds per hour but 600 pounds per hour or more;

(iii) June 1, 1991, for incinerators at plant sites with an incinerator capacity of less than 600 pounds per hour but 400 pounds per hour or more;

- (iv) December 1, 1991, for plant sites with an incinerator capacity of less than 400 pounds per hour.
- (B) The compliance schedule shall contain the following increments of progress:
 - (i) a date by which contracts for the emission control system and/or process equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (ii) a date by which on-site construction or installation of the emission control and/or process equipment shall begin;
 - (iii) a date by which on-site construction or installation of the emission control and/or process equipment shall be completed; and
 - (iv) a date by which final compliance shall be achieved.
- (C) The final compliance date under Paragraph (h)(2)(B)(iv) of this Rule shall not be later than:
 - (i) June 1, 1992, for incinerators at plant sites with an incinerator capacity of 800 pounds per hour or more;
 - (ii) December 1, 1992, for incinerators at plant sites with an incinerator capacity of less than 800 pounds per hour but 600 pounds per hour or more;
 - (iii) June 1, 1993, for incinerators at plant sites with an incinerator capacity of less than 600 pounds per hour but 400 pounds per hour or more;
 - (iv) December 1, 1993, for incinerators at plant sites with an incinerator capacity of less than 400 pounds per hour.

The owner or operator shall certify to the director prior to the date five days after the deadline for each increment of progress whether the required increment of progress has been met.
- (i) The owner or operator of an incinerator subject to Paragraph (d) of this Rule that:
 - (1) began construction after November 30, 1990, shall be in compliance with Paragraph (d) before beginning operation.
 - (2) began construction before December 1, 1990, shall adhere to the following increments of progress and schedules:
- (A) Documentation that the incinerator meets the requirements of Paragraphs (d) of this Rule or an air permit application including final plans and a compliance schedule shall be submitted before:
 - (i) June 1, 1991, for incinerators at plant sites with an incinerator capacity of 800 pounds per hour or more;
 - (ii) December 1, 1991, for incinerators at plant sites with an incinerator capacity of less than 800 pounds per hour but 600 pounds per hour or more;
 - (iii) June 1, 1992, for incinerators at plant sites with an incinerator capacity of less than 600 pounds per hour but 400 pounds per hour or more;
 - (iv) December 1, 1992, for incinerators at plant sites with an incinerator capacity of less than 400 pounds per hour.

The owner or operator shall certify to the director prior to the date five days after the deadline for each increment of progress whether the required increment of progress has been met.
- (j) When Paragraphs (c) or (d) of this Rule and Rule .0524 or .0525 of this Subchapter regulate the same pollutant, the more restrictive regulation shall apply, notwithstanding provisions of Rules .0524 or .0525 of this Subchapter to the contrary.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

.0535 MALFUNCTION: START-UP AND SHUT-DOWN

(a) For the purpose of this Regulation the following definitions apply:

(1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or standard allowed by any regulation in Sections .0500 or .0900 of this Subchapter or by a permit condition or that exceeds an emission limit established in a permit issued under 15 NCAC 2H .0610.

(b) This Regulation does not apply to sources to which Regulation .0524 or .0525 of this Section applies ~~or to which 40 CFR Part 60 or 61 applies.~~ unless excess emissions exceed an emission limit established in a permit issued under 15 NCAC 2H .0610 that is more stringent than the emission limit set by Rules .0524 or .0525 of this Section.

(d) All electric utility boiler units subject to a regulation in this Section shall have a malfunction abatement plan approved by the director. In addition, the director may require any other source that he has determined to have had a history of excess emissions to have a malfunction abatement plan approved by the director. The malfunction plans of electric utility boiler units and of other sources required to have them shall be implemented when a malfunction or other breakdown occurs. The purpose of the malfunction abatement plan is to prevent, detect, and correct malfunctions or equipment failures that could result in excess emissions. A malfunction abatement plan shall contain as a minimum:

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5).

SECTION .0900 - VOLATILE ORGANIC COMPOUNDS

.0902 APPLICABILITY

(b) This Section does not apply to:

- (2) sources at a facility where the total of potential emissions of volatile organic compounds from all stationary sources at the facility is ~~not more~~ less than 100 tons per year (This Subparagraph does not apply to the manufacture and use of cutback asphalt or to Rules .0925, .0926, .0927, .0928, .0932, and .0933 of this Section.);
- (3) facilities located in an area which is not designated by the U.S. Environmental Protection Agency to be a nonattainment area for photochemical oxidants or ozone as of April 30, 1979 (This Subparagraph does not apply to Rules .0925, .0926,

.0927, .0928, .0932, and .0933 of this Section.);

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

.0946 COMPLIANCE SCHEDULE: GASOLINE HANDLING

(a) With the exception in Paragraph (b) of this Rule, this Rule applies to all sources covered by Rules .0925, .0926, .0927, .0928, .0932, or .0933 of this Section.

(b) This Rule does not apply to sources in Mecklenburg County to which Rules .0925, .0926, .0927, .0928, .0932, or .0933 of this Section apply and which are located at a facility where the total potential emissions of volatile organic compounds from all stationary sources at the facility are 100 tons per year or more.

(c) The owner or operator of any bulk gasoline plant or bulk gasoline terminal subject to this Rule and Rule .0926 or .0927 of this Section or any tank subject to this Rule and Rule .0925 or .0933 of this Section and located at a bulk gasoline plant or bulk gasoline terminal subject to this Rule and Rule .0926 or .0927 of this Section shall adhere to the following increments of progress and schedules:

- (1) The air permit application including final plans and a compliance schedule shall be submitted before June 1, 1990;
- (2) The compliance schedule shall contain the following increments of progress:
 - (A) a date by which contracts for the emission control system and/or process equipment shall be awarded or orders shall be issued for purchase of component parts;
 - (B) a date by which on-site construction or installation of the emission control and/or process equipment shall begin;
 - (C) a date by which on-site construction or installation of the emission control and/or process equipment shall be completed; and
- (3) Final compliance shall be achieved by December 1, 1990.

The owner or operator shall certify to the director prior to the date five days after the deadline for each increment whether the required increment of progress has been met.

(d) The owner or operator of any gasoline service station or gasoline dispensing facility subject to this Rule and Rule .0928 of this Section shall comply with Rules .0928, .0932, .0925, and .0933 of this Section by December 1, 1990.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

.1101 PURPOSE

This Section sets forth the rules for the control of toxic air pollutants to protect human health.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5); 143B-282.

.1102 APPLICABILITY

(a) The toxic air pollutant rules in this Section apply to all facilities that emit a toxic air pollutant that are required to have permit under 15 NCAC 2H .0610.

(b) When a rule in Section .0500 or .0900 of this Subchapter and this Section regulates the same pollutant, the more restrictive rule shall apply.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5); 143B-282.

.1103 DEFINITION

For the purpose of this Section, the following definitions apply:

- (1) "Toxic air pollutant" means any of those carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants that are listed in Rule .1104 of this Section.
- (2) "Asbestos" means asbestos fibers as defined in 40 CFR 61.141.

Statutory Authority G.S. 143-213; 143-215.3(a)(1); 143B-282.

.1104 TOXIC AIR POLLUTANT GUIDELINES

(a) A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises (contiguous property boundary) to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

| | Annual (Carcinogens) |
|---------------------------|-------------------------|
| (1) acetaldehyde | |
| (2) acetic acid | |
| (3) acrolein | |
| (4) ammonia | |
| (5) aniline | |
| (6) arsenic and compounds | 2.3x10 ⁻⁷ |
| (7) asbestos | 2.8x10 ⁻¹¹ |

| | |
|---|----------------------|
| (8) aziridine | fibers/ml |
| (9) benzidine and salts | 1.5x10 ⁻⁸ |
| (10) benzo(a)pyrene | 3.3x10 ⁻⁵ |
| (11) benzyl chloride | |
| (12) beryllium | 4.1x10 ⁻⁶ |
| (13) beryllium chloride | 4.1x10 ⁻⁶ |
| (14) beryllium fluoride | 4.1x10 ⁻⁶ |
| (15) beryllium nitrate | 4.1x10 ⁻⁶ |
| (16) bis-chloromethyl ether | 3.7x10 ⁻⁷ |
| (17) bromide | |
| (18) cadmium | 5.5x10 ⁻⁶ |
| (19) cadmium acetate | 5.5x10 ⁻⁶ |
| (20) cadmium bromide | 5.5x10 ⁻⁶ |
| (21) carbon disulfide | |
| (22) chlorine | |
| (23) chlorobenzene | |
| (24) chloroprene | |
| (25) cresol | |
| (26) p-dichlorobenzene | |
| (27) dichlorodifluoromethane | |
| (28) dichlorodifluoromethane | |
| (29) di(2-ethylhexyl) phthalate | |
| (30) dimethyl sulfate | |
| (31) 1,4-dioxane | |
| (32) epichlorohydrin | 8.3x10 ⁻² |
| (33) ethyl acetate | |
| (34) ethylenediamine | |
| (35) ethylene dibromide | 4.0x10 ⁻⁴ |
| (36) ethylene dichloride | 3.8x10 ⁻³ |
| (37) ethylene glycol monoethyl ether | |
| (38) ethyl mercaptan | |
| (39) fluorides | |
| (40) formaldehyde | |
| (41) hexachlorocyclopentadiene | |
| (42) hexachlorodibenzo-p-dioxin | 7.6x10 ⁻⁸ |
| (43) n-hexane | |
| (44) hexane isomers except n-hexane | |
| (45) hydrazine | |
| (46) hydrogen chloride | |
| (47) hydrogen cyanide | |
| (48) hydrogen fluoride | |
| (49) hydrogen sulfide | |
| (50) maleic anhydride | |
| (51) manganese and compounds | |
| (52) manganese cyclopentadienyl tricarbonyl | |
| (53) manganese tetroxide | |

| | 24-hour | 1-hour | 15-minute | | | |
|---|----------------------|----------------------------|-------------------|------|---------|-------|
| | (Chronic Toxicants) | (Acute Systemic Toxicants) | (Acute Irritants) | | | |
| (54) mercury, alkyl | | | | (15) | | |
| (55) mercury, aryl and inorganic compounds | | | | (16) | | |
| (56) mercury, vapor | | | | (17) | | 0.2 |
| (57) methyl chloroform | | | | (18) | | |
| (58) methyl ethyl ketone | | | | (19) | | |
| (59) methyl isobutyl ketone | | | | (20) | | |
| (60) methyl mercaptan | | | | (21) | 0.186 | |
| (61) nickel dust | 3.3×10^{-5} | | | (22) | 0.0375 | 0.9 |
| (62) nickel subsulfide | 2.1×10^{-6} | | | (23) | 2.2 | |
| (63) nitric acid | | | | (24) | 0.44 | 3.5 |
| (64) nitrobenzene | | | | (25) | | 2.2 |
| (65) N-nitrosodimethylamine | 5.0×10^{-5} | | | (26) | | 66 |
| (66) pentachlorophenol | | | | (27) | 247 | |
| (67) phenol | | | | (28) | 0.5 | |
| (68) phosgene | | | | (29) | 0.03 | |
| (69) phosphine | | | | (30) | 0.003 | |
| (70) polychlorinated biphenyls | 8.3×10^{-5} | | | (31) | 0.56 | |
| (71) styrene | | | | (32) | | 140 |
| (72) sulfuric acid | | | | (33) | | 2.5 |
| (73) 1,1,1,2-tetrachloro-2,2-difluoroethane | | | | (34) | 0.3 | |
| (74) 1,1,2,2-tetrachloro-1,2-difluoroethane | | | | (35) | | |
| (75) 1,1,1,2-tetrachloroethane | 6.3×10^{-3} | | | (36) | | |
| (76) toluene | | | | (37) | 0.12 | 1.9 |
| (77) toluene-2,4-diisocyanate | | | | (38) | | 0.1 |
| (78) trichlorofluoromethane | | | | (39) | 0.016 | 0.25 |
| (79) 1,1,2-trichloro-1,2,2-trifluoroethane | | | | (40) | | |
| (80) vinyl chloride | 3.8×10^{-4} | | | (41) | 0.0006 | 0.01 |
| (81) vinylidene chloride | | | | (42) | | |
| (82) xylene | | | | (43) | 1.1 | |
| | | | | (44) | | 360 |
| | | | | (45) | 0.0006 | |
| | | | | (46) | | 0.7 |
| | | | | (47) | 0.14 | 1.1 |
| | | | | (48) | 0.03 | 0.25 |
| | | | | (49) | | 2.1 |
| | | | | (50) | 0.012 | 0.1 |
| | | | | (51) | 0.031 | |
| | | | | (52) | 0.0006 | |
| | | | | (53) | 0.0062 | |
| | | | | (54) | 0.00006 | |
| | | | | (55) | 0.0006 | |
| | | | | (56) | 0.0006 | |
| | | | | (57) | 12 | 245 |
| | | | | (58) | 3.7 | 88.5 |
| | | | | (59) | 2.56 | 30 |
| (1) | | | 27 | (60) | | 0.05 |
| (2) | | | 3.7 | (61) | | |
| (3) | | | 0.08 | (62) | | |
| (4) | | | 2.7 | (63) | | |
| (5) | | 1 | | (64) | 0.06 | 0.5 |
| (6) | | | | (65) | | |
| (7) | 0.006 | | | (66) | 0.003 | 0.025 |
| (8) | | | | (67) | 0.95 | |
| (9) | | | | (68) | 0.0025 | |
| (10) | | 0.5 | | (69) | | 0.13 |
| (11) | | | | (70) | | |
| (12) | | | | (71) | 1.34 | 42.5 |
| (13) | | | | (72) | 0.012 | 0.1 |
| (14) | | | | | | |

| | | |
|------|--------|-------|
| (73) | 52 | |
| (74) | 52 | |
| (75) | | |
| (76) | 4.7 | 56 |
| (77) | 0.0005 | 0.015 |
| (78) | 560 | |
| (79) | | 950 |
| (80) | | |
| (81) | 0.12 | |
| (82) | 2.7 | 65 |

(b) A facility shall not emit after December 1, 1990, any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure:

| | Annual (Carcinogens) |
|--------------------------------------|-------------------------|
| (1) acrylonitrile | 1.5×10^{-4} |
| (2) ammonium chromate | 8.3×10^{-8} |
| (3) ammonium dichromate | 8.3×10^{-8} |
| (4) benzene | 1.2×10^{-4} |
| (5) 1,3-butadiene | 1.7×10^{-4} |
| (6) calcium chromate | 8.3×10^{-8} |
| (7) carbon tetrachloride | 6.7×10^{-3} |
| (8) chloroform | 4.3×10^{-3} |
| (9) chromic acid | 8.3×10^{-8} |
| (10) chromium (VI) | 8.3×10^{-8} |
| (11) ethylene oxide | 2.7×10^{-5} |
| (12) lithium chromate | 8.3×10^{-8} |
| (13) methylene chloride | 2.4×10^{-2} |
| (14) perchloroethylene | 1.9×10^{-1} |
| (15) potassium chromate | 8.3×10^{-8} |
| (16) potassium dichromate | 8.3×10^{-8} |
| (17) sodium chromate | 8.3×10^{-8} |
| (18) sodium dichromate | 8.3×10^{-8} |
| (19) strontium chromate | 8.3×10^{-8} |
| (20) tetrachlorodibenzo- p-dioxin | 3.0×10^{-9} |
| (21) trichloroethylene | 5.9×10^{-2} |

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (4), (5); 143B-282.

**.1105 FACILITY REPORTING:
RECORDKEEPING**

(a) The owner or operator of a facility emitting a toxic air pollutant shall maintain records detailing all activities related to any compliance schedule.

(b) The owner or operator of a facility emitting a toxic air pollutant shall maintain, in writing, data and/or reports relating to monitoring instruments or procedures that will, upon review,

assist in documenting the compliance status of the facility or control equipment to the satisfaction of the commission.

(c) Copies of all records and reports under Paragraphs (a) and (b) of this Rule shall be retained by the owner or operator for a period of two years after the date on which the record was made or the report submitted, except that the director may extend the retention period in particular instances.

(d) Copies of all records and reports under this Section shall be made available to the director upon request.

(e) The reporting and recordkeeping requirements of this Section shall be specified in the permit issued pursuant to 15 NCAC 2H .0610.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.68; 143-215.107(a)(4), (5); 143B-282.

**.1106 DETERMINATION OF AMBIENT AIR
CONCENTRATIONS**

Ambient air concentrations shall be determined by using appropriate Environmental Protection Agency dispersion modeling procedures or other methods specified by the director. Ambient air concentrations are to be midnight to midnight, for one-hour periods beginning on the hour, and for 15-minute periods beginning on the hour or 15, 30, or 45 minutes after the hour. The identification of each toxic air pollutant emitted and its corresponding emission rate shall be determined using mass balancing analysis, source testing, or other methods acceptable to the director.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (5); 143B-282.

.1107 MULTIPLE FACILITIES

(a) If an acceptable ambient level in Rule .1104 of this Section is exceeded because of emissions of two or more facilities and if public exposure is such that the commission believes that human health may be adversely affected, then the commission may require the subject facilities to apply additional controls or to otherwise reduce emissions.

(b) The allocation of the additional reductions shall be based on the relative contributions to the pollutant concentrations unless the owners or operators agree otherwise.

(c) The owner or operator of a facility shall not be required to conduct the multi-facility ambient impact analysis described in Paragraph (a) of this Rule. This type of analysis shall be done by the Division of Environmental Management.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (5); 143B-282.

.1108 MULTIPLE POLLUTANTS

(a) If a facility or combination of facilities emits two or more toxic air pollutants which act in the same way to affect human health so that their effects may be additive or enhanced and if public exposure is such that the commission believes that human health may be adversely affected, then the commission may require the subject facility or facilities to apply additional controls or to otherwise reduce emissions.

(b) The allocation of the additional reductions shall be based on the relative contributions to the pollutant effect unless the owners or operators agree otherwise.

(c) The owner or operator of a facility shall not be required to conduct the multi-facility or multi-pollutant analysis described in Paragraph (a) of this Rule. This type of analysis shall be done by the Division of Environmental Management.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (5); 143B-282.

SUBCHAPTER 2H - PROCEDURES FOR PERMITS; APPROVALS

SECTION .0600 - AIR QUALITY PERMITS

.0602 DEFINITIONS

Unless the context otherwise requires, the terms used in this Section shall be used as defined in G.S. 143-213 and as follows:

(6) "Maximum feasible control" means the maximum degree of reduction for each pollutant subject to regulation in this Section using the best technology that is available taking into account, on a case-by-case basis, energy, environmental, and economic impacts and other costs.

Statutory Authority G.S. 143-213; 143-215.3(a)(1).

.0610 PERMIT REQUIREMENTS FOR TOXIC AIR POLLUTANTS

(a) No person shall cause or allow any toxic air pollutant named in 15 NCAC 2D .1104 to be emitted into the atmosphere from any source without having received a permit from the commission in accordance with the following:

(1) Sources and modifications of sources which require a permit or permit modification because of the applicability of Sections in Subchapter 2D of this Chapter other than Section .1100 and which begin

construction after November 30, 1989, shall have received a permit or permit modification to emit toxic air pollutants before beginning construction and shall be in compliance with their permit when beginning operations.

(2) Paragraph (a)(1) of this Rule does not apply to sources whose emissions result from only combusting unadulterated fossil fuels or unadulterated wood.

(3) The owner or operator of any other source shall have 180 days to apply for a permit or permit modification for the emissions of toxic air pollutants after receiving written notification from the division.

(4) When the director calls for permit applications for facilities pursuant to Paragraph (a)(3) of this Rule, he shall call for permit applications on the basis of standard industrial classifications, that is, he shall call at one time for permits for all facilities statewide that have the same four-digit standard industrial classification code, except those facilities located in certified local air pollution control agency areas. All members of a source or facility category not having a standard industrial classification code shall similarly be called at one time.

(5) The owner or operator of a source required to obtain a permit or permit modification before the date on which the guidelines in 15 NCAC 2D .1104(b) become effective shall be required to obtain the permit or permit modification only for toxic air pollutants named in 15 NCAC 2D .1104(a). However, the owner or operator of the source will later be required in accordance with Paragraph (a)(3) of this Rule to obtain permit modifications covering toxic air pollutants named in 15 NCAC 2D .1104(b).

(b) The owner or operator of a source who is applying for a permit or permit modification to emit toxic air pollutants shall:

(1) demonstrate to the satisfaction of the commission through dispersion modeling that the emissions of toxic air pollutants from the facility will not cause any acceptable ambient level listed in 15 NCAC 2D .1104 to be exceeded; or

(2) demonstrate to the satisfaction of the commission that the ambient concentration beyond the premises (contiguous property boundary) for the subject toxic air pollutant will not adversely affect human health even though the concentration

is higher than the acceptable ambient level in 15 NCAC 2D .1104.

(c) The owner or operator of any source constructed before December 1, 1989, who cannot supply a demonstration described in Paragraph (b) of this Rule shall:

- (1) submit a compliance schedule acceptable to the commission that will reduce the subject toxic air pollutant ambient concentration to a level that will not exceed any acceptable ambient level listed in 15 NCAC 2D .1104;
- (2) demonstrate to the satisfaction of the commission that complying with the guidelines in 15 NCAC 2D .1104 is technically infeasible; or
- (3) demonstrate to the satisfaction of the commission that complying with the guidelines in 15 NCAC 2D .1104 would result in significant economic hardship.

(d) If the owner or operator makes a demonstration to the satisfaction of the commission pursuant to Paragraph (c)(2) or (3) of this Rule, the commission shall require the owner or operator of the source to apply maximum feasible control.

(e) If the owner or operator of a source chooses to make a demonstration pursuant to Paragraph (b)(2) or (c)(2) or (3) of this Rule, the commission shall approve or disapprove the permit after a public hearing. The public hearing shall meet the requirements of Paragraph (e) of Rule .0603 of this Section except that the permit, if approved, shall not become part of the North Carolina State Implementation Plan for Air Quality.

(f) If the owner or operator of a facility demonstrates by modeling that any toxic air pollutant emitted from his facility contributes an incremental concentration to the ambient air concentration of that pollutant beyond his premises which is less than the acceptable ambient level values given in 15 NCAC 2D .1104, he does not have to provide any further modeling demonstration with his permit application. However, the commission may still require more stringent emission levels in accordance with its analysis under 15 NCAC 2D .1107 or .1108.

(g) A permit to emit toxic air pollutants shall not be required for:

- (1) the noncommercial use of household cleaners, household chemicals, or household fuels in private residences;
- (2) asbestos demolition and renovation projects that comply with 15 NCAC 2D .0525 and that are being done by persons accredited by the Department of Human Resources under the Asbestos Hazard Emergency Response Act;

- (3) emissions from gasoline dispensing facility or gasoline service station operations performed as a part of petroleum distribution to the ultimate consumer where the emissions comply with 15 NCAC 2D .0524, .0925, .0928, .0932 and .0933 and that receive gasoline from bulk gasoline plants or bulk gasoline terminals that comply with 15 NCAC 2D .0524, .0925, .0926, .0927, .0932, and .0933 via tank trucks that comply with 15 NCAC 2D .0932;
- (4) the use for agricultural operations by a farmer of fertilizers, pesticides, or other agricultural chemicals containing one or more of the compounds listed in 15 NCAC 2D .1104 if such compounds are applied in accordance with label instructions, agronomic practices acceptable to the North Carolina Department of Agriculture and the commission, or when applicable in accordance with regulations of the North Carolina Pesticide Board.
- (5) emissions of phosphine resulting from the fumigation of agricultural product processing, storage, or transportation equipment or structures before December 1, 1990;
- (6) any facility whose actual emissions from all sources are no more than the following:

| | lb/yr |
|----------------------------|----------------------|
| (A) acetaldehyde | |
| (B) acetic acid | |
| (C) acrolein | |
| (D) acrylonitrile | 10 |
| (E) ammonia | |
| (F) ammonium chromate | 0.0056 |
| (G) ammonium dichromate | 0.0056 |
| (H) aniline | |
| (I) arsenic and compounds | 0.016 |
| (J) asbestos | 1.9×10^{-6} |
| (K) aziridine | |
| (L) benzene | 8.1 |
| (M) benzidine and salts | 0.0010 |
| (N) benzo(a)pyrene | 2.2 |
| (O) benzyl chloride | |
| (P) beryllium | 0.28 |
| (Q) beryllium chloride | 0.28 |
| (R) beryllium fluoride | 0.28 |
| (S) beryllium nitrate | 0.28 |
| (T) bis-chloromethyl ether | 0.025 |
| (U) bromine | |
| (V) 1,3-butadiene | 12 |
| (W) cadmium | 0.37 |
| (X) cadmium acetate | 0.37 |
| (Y) cadmium bromide | 0.37 |

PROPOSED RULES

| | | | | | |
|------------------------------|--------|-----------------------------|---------|-----------|--|
| (Z) calcium chromate | 0.0056 | (UUU) methyl mercaptan | | | |
| (AA) carbon disulfide | | (VVV) nickel dust | 2.2 | | |
| (BB) carbon tetrachloride | 46 | (WWW) nickel subsulfide | 0.14 | | |
| (CC) chlorine | | (XXX) nitric acid | | | |
| (DD) chlorobenzene | | (YYY) nitrobenzene | | | |
| (EE) chloroform | 290 | (ZZZ) N-nitrosodi- | | | |
| (FF) chloroprene | | methylamine | 3.4 | | |
| (GG) chromic acid | 0.0056 | (AAAA) pentachlorophenol | | | |
| (HH) chromium (VI) | 0.0056 | (BBBB) perchloroethylene | 13,000 | | |
| (II) cresol | | (CCCC) phenol | | | |
| (JJ) p-dichlorobenzene | | (DDDD) phosgene | | | |
| (KK) dichlorodi- | | (EEEE) phosphine | | | |
| fluoromethane | | (FFFF) polychlorinated | | | |
| (LL) dichloroflu- | | biphenyls | 5.6 | | |
| oromethane | | (GGGG) potassium chromate | 0.0056 | | |
| (MM) di(2-ethylhexyl) | | (HHHH) potassium dichromate | 0.0056 | | |
| phthalate | | (IIII) sodium chromate | 0.0056 | | |
| (NN) dimethyl sulfate | | (JJJJ) sodium dichromate | 0.0056 | | |
| (OO) 1,4-dioxane | | (KKKK) strontium chromate | 0.0056 | | |
| (PP) epichlorohydrin | 5600 | (LLLL) styrene | | | |
| (QQ) ethyl acetate | | (MMMM) sulfuric acid | | | |
| (RR) ethylenediamine | | (NNNN) tetrachlorodi- | | | |
| (SS) ethylene dibromide | 27 | benzo-p-dioxin | 0.00020 | | |
| (TT) ethylene dichloride | 260 | (OOOO) 1,1,1,2-tetrachloro- | | | |
| (UU) ethylene glycol | | 2,2-difluoroethane | | | |
| monoethyl ether | | (PPPP) 1,1,2,2-tetrachloro- | | | |
| (VV) ethylene oxide | 1.8 | 1,2-difluoroethane | | | |
| (WW) ethyl mercaptan | | (QQQQ) 1,1,1,2-tetrachloro- | | | |
| (XX) fluorides | | ethane | 430 | | |
| (YY) formaldehyde | | (RRRR) toluene | | | |
| (ZZ) hexachlorocyclo- | | (SSSS) toluene- | | | |
| pentadiene | | 2,4-diisocyanate | | | |
| (AAA) hexachlorodibenzo- | | (TTTT) trichloro- | | | |
| p-dioxin | 0.0051 | ethylene | 4000 | | |
| (BBB) n-hexane | | (UUUU) trichlorofluoro- | | | |
| (CCC) hexane isomers | | methane | | | |
| except n-hexane | | (VVVV) 1,1,2-trichloro- | | | |
| (DDD) hydrazine | | 1,2,2-trifluoroethane | | | |
| (EEE) hydrogen chloride | | (WWWW) vinyl chloride | 26 | | |
| (FFF) hydrogen cyanide | | (XXXX) vinylidene chloride | | | |
| (GGG) hydrogen fluoride | | (YYYY) xylene | | | |
| (HHH) hydrogen sulfide | | | | | |
| (III) lithium chromate | 0.0056 | | | | |
| (JJJ) maleic anhydride | | 1b/day | 1b/hr | 1b/15 min | |
| (KKK) manganese and | | (A) | | 1.7 | |
| compounds | | (B) | | 0.24 | |
| (LLL) manganese | | (C) | | 0.005 | |
| cyclopentadienyl | | (D) | | | |
| tricarbonyl | | (E) | | 0.17 | |
| (MMM) manganese tetroxide | | (F) | | | |
| (NNN) mercury, alkyl | | (G) | | | |
| (OOO) mercury, aryl and | | (H) | 0.25 | | |
| inorganic compounds | | (I) | | | |
| (PPP) mercury, vapor | | (J) | | | |
| (QQQ) methyl chloroform | | (K) | 0.13 | | |
| (RRR) methylene chloride | 1600 | (L) | | | |
| (SSS) methyl ethyl ketone | | (M) | | | |
| (TTT) methyl isobutyl ketone | | (N) | | | |
| | | (O) | 0.13 | | |

PROPOSED RULES

| | | | | | | | |
|-------|--------|--------|-------|--------|-------|--------|-------|
| (P) | | | | (VVV) | | | |
| (Q) | | | | (WWW) | | | |
| (R) | | | | (XXX) | | | 0.064 |
| (S) | | | | (YYY) | 1.3 | 0.13 | |
| (T) | | | | (ZZZ) | | | |
| (U) | | 0.013 | | (AAAA) | 0.063 | 0.0064 | |
| (V) | | | | (BBBB) | | | |
| (W) | | | | (CCCC) | | 0.24 | |
| (X) | | | | (DDDD) | 0.052 | | |
| (Y) | | | | (EEEE) | | | 0.008 |
| (Z) | | | | (FFFF) | | | |
| (AA) | 3.9 | | | (GGGG) | | | |
| (BB) | | | | (HHHH) | | | |
| (CC) | 0.79 | | | (IIII) | | | |
| (DD) | 46 | | | (JJJJ) | | | |
| (EE) | | | | (KKKK) | | | |
| (FF) | 9.2 | 0.89 | | (LLLL) | 27 | | 2.7 |
| (GG) | | | | (MMMM) | 0.25 | 0.025 | |
| (HH) | | | | (NNNN) | | | |
| (II) | | 0.56 | | (OOOO) | 1100 | | |
| (JJ) | | | 4.2 | (PPPP) | 1100 | | |
| (KK) | 1300 | | | (QQQQ) | | | |
| (LL) | 10 | | | (RRRR) | 98 | | 3.6 |
| (MM) | 0.63 | | | (SSSS) | 0.011 | | 0.001 |
| (NN) | 0.063 | | | (TTTT) | | | |
| (OO) | 12 | | | (UUUU) | | 140 | |
| (PP) | | | | (VVVV) | | | 60 |
| (QQ) | | 36 | | (WWWW) | | | |
| (RR) | 6.3 | 0.64 | | (XXXX) | 2.5 | | |
| (SS) | | | | (YYYY) | 57 | | 4.1 |
| (TT) | | | | | | | |
| (UU) | 2.5 | 0.48 | | | | | |
| (VV) | | | | | | | |
| (WW) | | 0.025 | | | | | |
| (XX) | 0.34 | 0.64 | | | | | |
| (YY) | | | 0.010 | | | | |
| (ZZ) | 0.013 | 0.0025 | | | | | |
| (AAA) | | | | | | | |
| (BBB) | 23 | | | | | | |
| (CCC) | | | 23 | | | | |
| (DDD) | 0.013 | | | | | | |
| (EEE) | | | 0.045 | | | | |
| (FFF) | 2.9 | 0.28 | | | | | |
| (GGG) | 0.63 | | | | | | |
| (HHH) | | | 0.13 | | | | |
| (III) | | | | | | | |
| (JJJ) | 0.25 | 0.025 | | | | | |
| (KKK) | 0.63 | | | | | | |
| (LLL) | 0.013 | | | | | | |
| (MMM) | 0.13 | | | | | | |
| (NNN) | 0.0013 | | | | | | |
| (OOO) | 0.013 | | | | | | |
| (PPP) | 0.013 | | | | | | |
| (QQQ) | 250 | | 16 | | | | |
| (RRR) | | | | | | | |
| (SSS) | 78 | | 5.6 | | | | |
| (TTT) | 52 | | 1.9 | | | | |
| (UUU) | | 0.013 | | | | | |

Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282.

TITLE 21 - OCCUPATIONAL LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Landscape Architects intends to adopt rule(s) cited as 21 NCAC 26 .0307.

The proposed effective date of this action is December 1, 1989.

The public hearing will be conducted at 11:00 A.M. on August 3, 1989 at First Floor Conference Room, Caswell Building, 3700 National Drive, Raleigh, NC 27612.

Comment Procedures: Persons wishing to present oral data, views, or arguments on a proposed rule may file a notice with the Board at least 10 days prior to the hearing. Any person may also file a written submission concerning data, comments or arguments at any time until the date of

the hearing. Submissions should be mailed to the Board at P.O. Box 26852, Raleigh, NC 27611.

CHAPTER 26 - BOARD OF LANDSCAPE ARCHITECTS

SECTION .0300 - EXAMINATION AND LICENSING PROCEDURES

.0307 CONTINUING EDUCATION AS A CONDITION OF ANNUAL RENEWAL

(a) In order for a licensee to qualify for license renewal as a Landscape Architect in North Carolina, the licensee must have complete 10 contact hours of continuing education within the previous year. Such continuing education shall be by actively participating in courses, seminars, sessions, or programs approved by the Board.

(b) Proposed courses, seminars, sessions, or programs seeking to receive approval of the Board shall first be submitted to a five member Advisory Committee of NC licensed Landscape Architects appointed by the Chairman of the Board. This Continuing Education Advisory Committee shall recommend any course, seminar, session or program for continuing education credit to the Board that the Advisory Committee finds to meet the criteria in Paragraph (b)(1)(2) of this Rule. Committee members shall be reimbursed per diem and travel expenses for official meetings and serve purely at the discretion of the Chairman of the Board. No programs shall be considered for approval by the Board until first presented to the Advisory Committee for their recommendation.

(1) Each course, seminar, session or program to be recommended for approval by the Board shall, in the opinion of at least four members of the Advisory Committee, have a direct relationship to the practice of Landscape Architecture as defined in Chapter 89A of the General Statutes of

North Carolina and contain elements which will enhance the health, safety, and welfare of the citizens of North Carolina served by North Carolina licensed Landscape Architects.

(2) The Continuing Education Advisory Committee shall meet at least once during each three month quarter of the year and act on each course, seminar, session, or program properly submitted for its review. Each program shall be recommended for approval, recommended for disapproval, or deferred for lack of information. Programs recommended for approval shall be accompanied by a brief statement of findings by the committee of how the program meets the criteria established by this Rule. Programs deferred for lack of information shall be deferred only once, and if information is still lacking when next considered, the program shall be recommended for disapproval. Programs may be recommended for pre-approval by the Advisory Committee before they actually occur.

(c) Documentation of compliance with this Section shall be by affidavit provided on the application for license renewal. Erroneous or false information attested to by the licensee shall be deemed as grounds for denial of license renewal and possible suspension of license or denial of consideration for future license reinstatement, at the discretion of the Board.

(d) Requirements of this Section for license renewal shall become effective for license renewal on July 1, 1991. The Continuing Education Advisory Committee shall be appointed and ready to serve no later than January 1, 1990.

Statutory Authority G.S. 89A-3(c); 89A-5.

FINAL RULES

Upon request from the adopting agency, the text of rules will be published in this section.

When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Codified" and the text of the adopted rule will not be republished.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication of proposed rules.

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

JULY 1989

| AGENCY | | | | ACTION TAKEN | |
|--|------|-----|---------------------------|--------------|------------|
| <u>DEPARTMENT OF COMMERCE</u> | | | | | |
| 4 | NCAC | 1E | .0303 | | Amended |
| | | 13D | .0101 | | Amended |
| | | 17 | .0204 - .0205 | | Adopted |
| <u>COUNCIL OF STATE</u> | | | | | |
| 6 | NCAC | 1 | .0003 | | Amended |
| <u>DEPARTMENT OF CULTURAL RESOURCES</u> | | | | | |
| 7 | NCAC | 4Q | .0101 - .0102 | | Correction |
| | | | .0104 - .0105 | | Correction |
| | | 4R | .0601 - .0602 | | Correction |
| | | | .0719 | | Correction |
| | | | .0901 | | Correction |
| | | | .0905 | | Correction |
| | | | .0907 | | Correction |
| | | | .1004 | | Correction |
| | | | .1013 | | Correction |
| | | 4T | .0002 | | Correction |
| | | | .0007 | | Correction |
| <u>OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR</u> | | | | | |
| 9 | NCAC | 2 | Executive Order Number 90 | | |
| | | | Eff. May 18, 1989 | | |
| | | | Executive Order Number 91 | | |
| | | | Eff. May 18, 1989 | | |
| | | | Executive Order Number 92 | | |
| | | | Eff. May 31, 1989 | | |
| <u>DEPARTMENT OF HUMAN RESOURCES</u> | | | | | |
| 10 | NCAC | 3G | .2204 | | Correction |
| | | | .2305 | | Correction |
| | | | .2311 - .2314 | | Correction |

FINAL RULES

| | | |
|-----|---------------|------------|
| | .2401 | Correction |
| | .2409 | Correction |
| | .2449 - .2451 | Correction |
| | .2510 | Correction |
| | .2516 | Correction |
| | .2610 | Correction |
| | .3201 - .3202 | Amended |
| | .3205 | Amended |
| | .3402 | Correction |
| | .3407 - .3408 | Correction |
| | .3411 | Correction |
| | .3414 | Correction |
| | .3419 | Correction |
| | .3422 | Correction |
| | .3424 | Correction |
| | .3501 | Correction |
| | .3503 | Correction |
| | .3509 | Correction |
| 3H | .0516 | Adopted |
| 8C | .0602 | Amended |
| | .0802 | Amended |
| | .0805 - .0806 | Amended |
| | .0808 - .0809 | Amended |
| | .0901 - .0902 | Amended |
| | .1103 - .1104 | Amended |
| | .1106 | Amended |
| 14G | .0101 - .0102 | Amended |
| | .0201 - .0212 | Amended |
| | .0301 - .0306 | Amended |
| 14H | .0101 | Repealed |
| | .0102 - .0104 | Amended |
| | .0201 - .0208 | Amended |
| | .0301 - .0302 | Amended |
| | .0401 - .0403 | Amended |
| 14I | .0101 - .0105 | Amended |
| | .0106 | Adopted |
| | .0201 - .0204 | Amended |
| | .0301 - .0308 | Amended |
| | .0310 | Amended |
| 14J | .0101 - .0103 | Amended |
| | .0104 | Repealed |
| | .0105 - .0106 | Amended |
| | .0107 | Adopted |
| | .0201 - .0207 | Amended |
| | .0208 - .0209 | Repealed |
| | .0301 - .0302 | Amended |
| | .0401 - .0404 | Amended |
| 14K | .0219 | Adopted |
| 15A | .0204 - .0228 | Adopted |
| 18I | .0115 | Amended |
| 18J | .0709 | Amended |
| | .0712 | Amended |
| 18L | .0333 - .0334 | Amended |
| | .0338 | Amended |
| | .0429 | Amended |
| | .0432 | Amended |
| | .0604 | Amended |
| | .0702 - .0703 | Amended |
| | .0705 - .0707 | Amended |

FINAL RULES

| | | |
|-----|---------------|----------|
| | .0804 - .0809 | Amended |
| | .0903 - .0904 | Amended |
| | .1002 | Amended |
| | .1004 - .1006 | Amended |
| | .1102 - .1107 | Amended |
| | .1203 - .1206 | Amended |
| | .1302 - .1305 | Amended |
| | .1402 - .1403 | Amended |
| 18Q | .0284 | Amended |
| | .0286 | Amended |
| | .0521 | Amended |
| | .0709 - .0715 | Adopted |
| | .0803 - .0804 | Amended |
| | .0808 | Amended |
| | .0810 | Amended |
| | .0812 | Amended |
| 18R | .0205 | Repealed |
| 35D | .0301 | Amended |
| | .0304 | Amended |
| 35E | .0101 | Amended |
| | .0105 - .0106 | Amended |
| | .0204 | Adopted |
| 35F | .0001 - .0003 | Amended |
| | .0004 - .0005 | Repealed |
| | .0006 - .0007 | Amended |
| | .0009 | Repealed |
| 45G | .0110 | Amended |
| 45H | .0203 | Amended |
| 47B | .0404 | Amended |

DEPARTMENT OF INSURANCE

| | | | |
|----|---------|-------|---------|
| 11 | NCAC 13 | .0504 | Amended |
|----|---------|-------|---------|

DEPARTMENT OF JUSTICE

| | | | |
|----|---------|---------------|----------|
| 12 | NCAC 9A | .0103 | Amended |
| | | .0204 - .0206 | Amended |
| | 9B | .0102 | Amended |
| | | .0203 | Amended |
| | | .0205 - .0206 | Amended |
| | | .0209 - .0214 | Amended |
| | | .0218 - .0219 | Amended |
| | | .0222 | Amended |
| | | .0224 | Amended |
| | | .0226 - .0228 | Amended |
| | | .0231 - .0232 | Amended |
| | | .0233 | Adopted |
| | | .0304 - .0305 | Amended |
| | | .0310 | Amended |
| | | .0401 | Amended |
| | | .0403 - .0407 | Amended |
| | | .0414 - .0415 | Amended |
| | | .0603 | Amended |
| | 9C | .0303 - .0304 | Amended |
| | | .0306 - .0307 | Amended |
| | | .0501 - .0505 | Repealed |
| | | .0602 - .0605 | Amended |
| | 9E | .0101 - .0107 | Adopted |

FINAL RULES

10B .0601

Amended

DEPARTMENT OF LABOR

13 NCAC 7C .0101 - .0102
.0105 - .0106

Amended
Adopted

DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

14A NCAC 7 .0311

Amended

DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

15 NCAC 7H .0209
7J .0203 - .0204
.0207
.0306
.0312
.0402 - .0403
.0801 - .0822
.0901 - .0909
.1001 - .1003
10B .0105
.0113
.0202 - .0203
.0209
10C .0205 - .0206
.0208
.0213
.0305
.0401 - .0402
.0407
10D .0002 - .0003
10F .0359

Amended
Amended
Amended
Amended
Amended
Amended
Repealed
Repealed
Repealed
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Amended
Correction

DEPARTMENT OF PUBLIC EDUCATION

16 NCAC 6C .0401

Amended

DEPARTMENT OF REVENUE

17 NCAC 7B .123
.406
.401
.2901
.2903
.3201
.3203
.3301
7C .0103 - .0104
.0304

Amended
Amended
Amended
Amended
Amended
Amended
Adopted
Amended
Amended
Amended
Amended

BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21 NCAC 8A .0101
.0105
.0201
.0308 - .0310
8B .0102
.0501

Correction
Correction
Correction
Correction
Correction
Correction
Correction

FINAL RULES

| | | |
|----|---------------|------------|
| | .0508 | Correction |
| 8C | .0103 | Correction |
| | .0107 - .0108 | Correction |
| | .0110 - .0111 | Correction |
| | .0114 | Correction |
| | .0121 | Correction |
| 8F | .0101 | Correction |
| | .0103 | Correction |
| | .0106 | Correction |
| | .0302 | Correction |
| | .0304 | Correction |
| | .0401 | Amended |
| 8G | .0101 | Correction |
| | .0109 | Correction |
| | .0112 - .0113 | Correction |
| | .0201 | Correction |
| | .0203 - .0204 | Correction |
| | .0211 | Correction |
| | .0305 | Correction |
| | .0403 | Correction |
| | .0404 | Correction |
| 8H | .0004 - .0005 | Correction |
| 8I | .0001 - .0002 | Correction |
| | .0004 | Correction |
| 8J | .0001 | Correction |
| | .0003 | Correction |
| | .0006 - .0007 | Correction |
| 8K | .0104 - .0105 | Correction |
| | .0201 | Correction |
| 8L | .0002 | Correction |

BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

| | | | |
|----|----------|-------|---------|
| 21 | NCAC 18B | .0209 | Amended |
| | | .0404 | Amended |
| | | .0704 | Amended |

LICENSING BOARD OF LANDSCAPE ARCHITECTS

| | | | |
|----|---------|-------|---------|
| 21 | NCAC 26 | .0105 | Amended |
|----|---------|-------|---------|

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

| | | | |
|----|---------|---------------|----------|
| 21 | NCAC 56 | .0604 | Repealed |
| | | .1601 - .1604 | Adopted |

REAL ESTATE COMMISSION

| | | | |
|-----|----------|---------------|---------|
| 21 | NCAC 58A | .0104 - .0107 | Amended |
| | | .0109 | Amended |
| | | .0112 | Amended |
| | | .0401 - .0402 | Amended |
| | | .0406 | Amended |
| | | .0501 | Amended |
| | | .1501 - .1502 | Adopted |
| | | .1601 | Adopted |
| 58B | | .0701 | Adopted |

OFFICE OF STATE PERSONNEL

| | | | | |
|----|------|----|---------------|---------|
| 25 | NCAC | 1B | .0402 | Amended |
| | | | .0414 | Amended |
| | | 1D | .0301 - .0302 | Amended |
| | | | .1201 - .1204 | Amended |
| | | 1J | .0408 | Amended |
| | | | .0605 | Amended |
| | | | .0608 | Amended |
| | | | .0701 - .0703 | Amended |

OFFICE OF ADMINISTRATIVE HEARINGS

| | | | | |
|----|------|----|-------|---------|
| 26 | NCAC | 2A | .0204 | Amended |
| | | 4 | .0001 | Amended |
| | | | .0008 | Amended |

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

| TITLE | DEPARTMENT |
|--------------|--|
| 1 | Administration, Department of |
| 2 | Agriculture, Department of |
| 3 | Auditor, Department of State |
| 4 | Commerce, Department of |
| 5 | Corrections, Department of |
| 6 | Council of State |
| 7 | Cultural Resources, Department of |
| 8 | Elections, State Board of |
| 9 | Governor, Office of the |
| 10 | Human Resources, Department of |
| 11 | Insurance, Department of |
| 12 | Justice, Department of |
| 13 | Labor, Department of |
| 14A | Crime Control and Public Safety, Department of |
| 15 | Natural Resources and Community Development, Department of |
| 16 | Public Education, Department of |
| 17 | Revenue, Department of |
| 18 | Secretary of State, Department of |
| 19A | Transportation, Department of |
| 20 | Treasurer, Department of State |
| *21 | Occupational Licensing Boards |
| 22 | Administrative Procedures |
| 23 | Community Colleges, Department of |
| 24 | Independent Agencies |
| 25 | State Personnel, Office of |
| 26 | Administrative Hearings, Office of |

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

| CHAPTER | LICENSING BOARDS |
|----------------|---|
| 2 | Architecture, Board of |
| 4 | Auctioneers, Commission for |
| 6 | Barber Examiners, Board of |
| 8 | Certified Public Accountant Examiners, Board of |
| 10 | Chiropractic Examiners, Board of |
| 12 | General Contractors, Licensing Board for |
| 14 | Cosmetic Art Examiners, Board of |
| 16 | Dental Examiners, Board of |
| 18 | Electrical Contractors, Board of Examiners of |
| 20 | Foresters, Board of Registration for |
| 21 | Geologists, Board of |
| 22 | Hearing Aid Dealers and Fitters Board |
| 26 | Landscape Architects, Licensing Board of |
| 28 | Landscape Contractors, Registration Board of |
| 31 | Marital & Family Therapy Certification Board |
| 32 | Medical Examiners, Board of |
| 33 | Midwifery Joint Committee |
| 34 | Mortuary Science, Board of |
| 36 | Nursing, Board of |
| 37 | Nursing Home Administrators, Board of |
| 38 | Occupational Therapists, Board of |
| 40 | Opticians, Board of |
| 42 | Optometry, Board of Examiners in |

| | |
|----|---|
| 44 | Osteopathic Examination and Registration, Board of |
| 46 | Pharmacy, Board of |
| 48 | Physical Therapy Examiners, Board of |
| 50 | Plumbing and Heating Contractors, Board of |
| 52 | Podiatry Examiners, Board of |
| 53 | Practicing Counselors, Board of |
| 54 | Practicing Psychologists, Board of |
| 56 | Professional Engineers and Land Surveyors, Board of |
| 58 | Real Estate Commission |
| 60 | Refrigeration Examiners, Board of |
| 62 | Sanitarian Examiners, Board of |
| 63 | Social Work, Certification Board for |
| 64 | Speech and Language Pathologists and Audiologists, Board of Examiners of |
| 66 | Veterinary Medical Board |

CUMULATIVE INDEX

CUMULATIVE INDEX (April 1989 - March 1990)

1989 - 1990

| Pages | Issue |
|-----------------|-----------|
| 1 - 151 | 1 - April |
| 152 - 192 | 2 - April |
| 193 - 216 | 3 - May |
| 217 - 289 | 4 - May |
| 290 - 311 | 5 - June |
| 312 - 364 | 6 - June |
| 365 - 454 | 7 - July |

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

ADMINISTRATIVE ORDER

Administrative Order, 4, 152

AGRICULTURE

Cotton Warehouse, 220 PR
Markets, 217 PR
N.C. Pesticide Board, 292 PR
N.C. Plant Conservation Board, 196 PR
N.C. State Fair, 217 PR
Plant Industry, 153 PR, 218 PR

COMMERCE

Finance Center, 368 PR
N.C. Cemetery Commission, 198 PR

COMMUNITY COLLEGES

Board of Community Colleges, 352 PR

CULTURAL RESOURCES

Archives and History, 370 PR
Arts Council, 371 PR

EDUCATION

Elementary and Secondary Education, 253 PR, 295 PR

FINAL DECISION LETTERS

Voting Rights Act, 5, 193, 367

FINAL RULES

List of Rules Codified, 183 FR, 274 FR, 303 FR, 445 FR

GOVERNOR/LT. GOVERNOR

Executive Orders, 1, 290, 312, 365

HUMAN RESOURCES

Departmental Rules, 372 PR

Facility Services, 199 PR, 377 PR

Health Services, 153 PR, 315 PR, 405 PR

Medical Assistance, 158 PR, 294 PR

Mental Health: Mental Retardation and Substance Abuse Services, 17 PR, 417 PR

Vocational Rehabilitation Services, 7 PR

INSURANCE

Fire and Casualty Division, 202 PR

LICENSING BOARDS

Architecture, 349 PR

Landscape Architects, 443 PR

North Carolina Certification Board for Social Work, 179 PR

Nursing, Board of, 296 PR

Physical Therapy Examiners, 262 PR

NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

Coastal Management, 239 PR

Community Assistance, 134 PR

Economic Opportunity, 178 PR

Environmental Management, 18 PR, 160 PR, 202 PR, 238 PR, 295 PR, 347 PR, 431 PR

Marine Fisheries, 47 PR

Wildlife Resources and Water Safety, 134 PR, 178 PR, 207 PR, 252 PR

REVENUE

Sales and Use Tax, 353 FR

STATE PERSONNEL

State Personnel Commission, 181 PR, 210 PR, 265 PR

TRANSPORTATION

Division of Motor Vehicles, 140 FR

NOW AVAILABLE

NORTH CAROLINA ADMINISTRATIVE CODE

The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

PRICE LIST FOR THE SUBSCRIPTION YEAR

| Volume | Title | Chapter | Subject | New Subscription* | Quantity | Total Price |
|--------|-----------|---------|--|----------------------|----------|----------------|
| 1 - 52 | Full Code | | All titles | \$750.00 | | |
| 1 | 1 | 1 - 37 | Administration | 90.00 | | |
| 2 | 2 | 1 - 24 | Agriculture | 75.00 | | |
| 3 | 2 | 25 - 52 | Agriculture | 75.00 | | |
| 4 | 3 | 1 - 4 | Auditor | 10.00 | | |
| 5 | 4 | 1 - 2 | Commerce (includes ABC) | 45.00 | | |
| 6 | 4 | 3 - 17 | Commerce | 90.00 | | |
| 7 | 5 | 1 - 2 | Corrections | 60.00 | | |
| 8 | 5 | 3 - 4 | Corrections | 30.00 | | |
| 9 | 6 | 1 - 4 | Council of State | | | |
| | 7 | 1 - 11 | Cultural Resources | 60.00 | | |
| 10 | 8 | 1 - 9 | Elections | 10.00 | | |
| 11 | 9 | 1 - 4 | Governor | 45.00 | | |
| 12 | 10 | 1 - 2 | Human Resources | 30.00 | | |
| 13 | 10 | 3A - 3K | Human Resources | 90.00 | | |
| 14 | 10 | 3L - 3R | Human Resources (includes CON) | 45.00 | | |
| 15 | 10 | 3S - 3U | Human Resources | 30.00 | | |
| 16 | 10 | 4 - 6 | Human Resources | 30.00 | | |
| 17 | 10 | 7 | Human Resources (includes Breathalyzer) | 30.00 | | |
| 18 | 10 | 8 - 9 | Human Resources | 60.00 | | |
| 19 | 10 | 10 | Human Resources | 90.00 | | |
| 20 | 10 | 11 - 14 | Human Resources | 60.00 | | |
| 21 | 10 | 15 - 17 | Human Resources | 45.00 | | |
| 22 | 10 | 18 | Human Resources | 75.00 | | |
| 23 | 10 | 19 - 30 | Human Resources | 90.00 | | |
| 24 | 10 | 31 - 33 | Human Resources | 30.00 | | |
| 25 | 10 | 34 - 41 | Human Resources | 60.00 | | |
| 26 | 10 | 42 | Human Resources | 45.00 | | |
| 27 | 10 | 43 - 50 | Human Resources | 90.00 | | |
| 28 | 11 | 1 - 15 | Insurance | 90.00 | | |

Continued

| Volume | Title | Chapter | Subject | New Subscription* | Quantity | Total Price |
|--------|-------|---------|------------------------------------|----------------------|----------|----------------|
| 29 | 12 | 1 - 12 | Justice | 90.00 | _____ | _____ |
| 30 | 13 | 1 - 6 | Labor | 30.00 | _____ | _____ |
| 31 | 13 | 7 | OSHA | 45.00 | _____ | _____ |
| 32 | 13 | 8 - 15 | Labor | 45.00 | _____ | _____ |
| 33 | 14A | 1 - 11 | Crime Control and Public Safety | 45.00 | _____ | _____ |
| 34 | 15 | 1 - 2 | NRCD (includes EMC) | 90.00 | _____ | _____ |
| 35 | 15 | 3 - 6 | NRCD | 45.00 | _____ | _____ |
| 36 | 15 | 7 | Coastal Management | 45.00 | _____ | _____ |
| 37 | 15 | 8 - 9 | NRCD | 30.00 | _____ | _____ |
| 38 | 15 | 10 | Wildlife | 45.00 | _____ | _____ |
| 39 | 15 | 11 - 22 | NRCD | 60.00 | _____ | _____ |
| 40 | 16 | 1 - 6 | Education | 30.00 | _____ | _____ |
| 41 | 17 | 1 - 6 | Revenue | 75.00 | _____ | _____ |
| 42 | 17 | 7 - 11 | Revenue | 60.00 | _____ | _____ |
| 43 | 18 | 1 - 7 | Secretary of State | 30.00 | _____ | _____ |
| 44 | 19A | 1 - 6 | Transportation | 90.00 | _____ | _____ |
| 45 | 20 | 1 - 9 | Treasurer | 45.00 | _____ | _____ |
| 46 | 21 | 1 - 16 | Licensing Boards | 75.00 | _____ | _____ |
| 47 | 21 | 17 - 37 | Licensing Boards | 75.00 | _____ | _____ |
| 48 | 21 | 38 - 70 | Licensing Boards | _____ | _____ | _____ |
| | 22 | 1 - 2 | Administrative Procedures | 75.00 | _____ | _____ |
| 49 | 23 | 1 - 2 | Community Colleges | 10.00 | _____ | _____ |
| 50 | 24 | 1 - 2 | Independent Agencies | 10.00 | _____ | _____ |
| 51 | 25 | 1 | State Personnel | 60.00 | _____ | _____ |
| 52 | 26 | 1 - 4 | Administrative Hearings | 10.00 | _____ | _____ |
| | | | | Total | _____ | _____ |

(Make checks payable to Office of Administrative Hearings.)

* This price includes the title in its current form plus supplementation for the subscription year.

Subscription years are January 1 through December 31.

MAIL TO:

OFFICE OF ADMINISTRATIVE HEARINGS
POST OFFICE DRAWER 11666
RALEIGH, NORTH CAROLINA 27604

Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, North Carolina 27604

PLA
STA
HER

FOLD HERE

NORTH CAROLINA REGISTER ORDER FORM

Please enter my subscription for the *North Carolina Register* to start with the _____ issue.
(\$105.00)/year subscription)

Renew *North Carolina Register*

Check Enclosed ☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME _____ ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____

Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)

CHANGE OF ADDRESS:

1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

2. New Address

NAME

ADDRESS

CITY

STATE

ZIP

Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, North Carolina 27604

"SAFETY IN
THE LAWS"



FIRST CLASS MAIL

612
UNIV. OF NORTH CAROLINA
AT CHAPEL HILL LIB.
VAN HECKE-WETTACH BLDG. 064 A
CHAPEL HILL

NC 27514